HEARING ON H.R. 2438, AND H.R. 1995

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS

OF THE

COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

ON

H.R. 2438

TO ENCOURAGE THE ESTABLISHMENT OF APPROPRIATE TRAILS ON ABANDONED RAILROAD RIGHTS-OF-WAY, WHILE ENSURING THE PROTECTION OF CERTAIN REVERSIONARY PROPERTY RIGHTS

H.R. 1995

TO PROVIDE FOR THE PROTECTION OF FARMLAND AT THE POINT REYES NATIONAL SEASHORE, AND FOR OTHER PURPOSES

OCTOBER 30, 1997, WASHINGTON, DC

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CONTENTS

	Page
Hearing held October 30, 1997	1
Statements of Members:	
Boxer, Hon. Barbara, a Senator in Congress from the State of California, prepared statement of	4
Christian-Green, Hon. Donna M., a Delelgate in Congress from the Territory of the Virgin Islands, prepared statement of	22
Faleomavaega, Hon. Eni F.H., a Delegate in Congress from American Samoa	3
Hansen, Hon. James V., a Representative in Congress from the State of Utah	1
Prepared statement of	2
Hefley, Hon. Joel, a Representative in Congress from the State of Colorado, prepared statement of	5
Ryun, Hon. Jim, a Representative in Congress from the State of Kansas	7
Prepared statement of	10
Vento, Hon. Bruce, a Representative in Congress from the State of Minnesota	5
Woolsey, Hon. Lynn, a Representative in Congress from the State of California	12
Additional material submitted for the record by	307
Statements of witnesses:	
Ackerson, Nels, Attorney, The Ackerson Group	37
Prepared statement of	99
Allen, Richard, Landowner	54
Prepared statement of	130
Berner, Robert, Executive Director, Marin Agricultural Land Trust	65
Prepared statement of	143
Borello, Judy, Rancher	78
Prepared statement of	157
Coletti, Mary, Rancher	75
Prepared statement of	153
Additional material submitted for the record by	216
Cummiskey, Vicki, Mayor, city of Ottawa, Kansas, prepared statement of	177
Doughty, Sharon, Dairy Rancher	66
Prepared statement of	145
Furlong, Donna, Rancher	77
Prepared statement of	155
Glosemeyer, Jane, Landowner	41
Prepared statement of	113
Hodgson, Hon. Janice, Mayor, City of Garnett	53
Prepared statement of	127
Kinsey, Steve, Supervisor, Fourth District, County of Marin	63
Prepared statement of	141
Kitay, Evelyn, Senior Trial Attorney, Office of the General Counsel, Surface Transportation Board	26
Prepared statement of	93
McIntyre, Amelia J., Legal Counsel, city of Garnett, prepared statement of	165
Newman, Bill, Vice President and Washington Counsel, Conrail	56
Prepared statement of	136
Norton, Edward, Board Member, National Trust for Historic Preservation	51
Prepared statement of	117

Page

Statements of witnesses—Continued
Pozzi, Martin and Sally, Ranchers 73
Prepared statement of Mr. Pozzi 150
Stevenson, Kate, Associate Director, Cultural Resource Stewardship and Partnerships, The National Park Service 24
Prepared statement of 84
Welsh, Richard, Executive Director, National Association of Reversionary Property Owners 39
Prepared statement of 109
Woodbury, Howard, Landowner 42
Prepared statement of 115
Additional material supplied:
Point Reyes National Seashore, California 179

HEARING ON H.R. 2438, TO ENCOURAGE THE ESTABLISHMENT OF APPROPRIATE TRAILS ON ABANDONED RAILROAD RIGHTS-OF-WAY, WHILE ENSURING THE PROTECTION OF CERTAIN REVERSIONARY PROPERTY RIGHTS AND H.R. 1995, TO PROVIDE FOR THE PROTECTION OF FARMLAND AT THE POINT REYES NATIONAL SEASHORE, AND FOR OTHER PURPOSES

THURSDAY, OCTOBER 30, 1997

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS, COMMITTEE ON RESOURCES, *Washington, DC*

The Subcommittee met, pursuant to notice, at 10 a.m., in room 1324, Longworth House Office Building, Hon. James V. Hansen (chairman of the Subcommittee) presiding.

STATEMENT OF HON. JAMES V. HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. HANSEN. The Committee will come to order.

Good morning and welcome to the hearing. Today we will hear testimony on two bills. One amends the National Trails System Act, and the other provides protection to farmlands in California. We are pleased to have two Members of Congress to testify on these bills, along with the other witnesses.

I would like to welcome Congressman Jim Ryun, who will explain H.R. 2438, and Congresswoman Lynn Woolsey, who will explain H.R. 1995.

Before these hearings, however, I need to proceed with the legislation markup of H.R. 2186.

[Whereupon, at 10:02 a.m., the Subcommittee proceeded to other business.]

Mr. HANSEN. Let's see—we'll now go back to the legislative hearing.

H.R. 2438 was introduced by Congressman Jim Ryun of Kansas to establish appropriate trails on abandoned railroad rights-of-way. This bill will amend the National Trails System Act to ensure protection of private property rights on lands which once held an active railroad easement and modifies the language in the existing Act to allow other uses, but still retains the recreational use where

it is appropriate. H.R. 2438 also assures that State laws regarding railroad easements and rights-of-ways will not be preempted by Federal statute.

The second bill the Committee will hear today is H.R. 1995, the Point Reyes National Seashore Farmland Protection Act of 1997, introduced by Mrs. Woolsey of California.

This bill creates a farmland protection area in Marin and Sonoma—is that how you pronounce that—Sonoma Counties—is that right, Lynn?

Ms. WOOLSEY. That's correct.

Mr. HANSEN. [continuing] in California, consisting of 38,000 acres of privately owned land by expanding the existing boundary of the Point Reyes National Seashore. This bill is opposed by some people here who will give their objection to it. There is also the concern of acquisition of development easements by the Secretary of the Interior. This legislation could set a precedent, and I would hope that members would take a close look at both bills.

I will now recognize my distinguished colleague from American Samoa for any opening remarks he may have.

[The prepared statement of Mr. Hansen follows:]

STATEMENT OF HON. JAMES V. HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Good morning everyone and welcome to the hearing. Today we will hear testimony on two bills. One amends the National Trails System Act and the other provides protection to farm land in California. We are pleased to have two Members of Congress to testify on these bills, along with the other witnesses.

I would like to welcome:

Congressman Jim Ryun who will explain H.R. 2438 and, Congresswoman Lynn Woolsey who will explain H.R. 1995

But before these hearings however, I need to proceed to the legislative markup of H.R. 2186. I would like to begin by saying that Congresswoman Cubin wanted to be here to explain H.R. 2186, however, she has just undergone major back surgery and is unable to attend. I certainly wish her a very speedy and complete recovery.

Now, I will get back to the legislative hearings.

H.R. 2438 was introduced by Congressman Jim Ryun of Kansas to establish appropriate trails on abandoned railroad rights-of-way. This bill will amend the National Trails System Act to ensure protection of private property rights on lands which once held an active railroad easements and modifies the language in the existing Act to allow other interim uses, but still retains the recreational use where it is appropriate. H.R. 2438 also assures that state laws regarding railroad easements and rights-of-way will not be preempted by Federal statute.

The second bill the Subcommittee will hear testimony on today is H.R. 1995, The Point Reyes National Seashore Farmland Protection Act of 1997, introduced by Mrs. Woolsey of California.

This legislation is very controversial in nature, and was scheduled for a hearing before this Subcommittee only at the insistence of Chairman Young. This bill creates a "Farmland Protection Area" in Marin and Sonoma counties in California, consisting of approximately 38,000 acres of privately owned, productive agricultural land, outside the existing boundary of the Point Reyes National Seashore. The bill is opposed by a majority of the affected landowners who control approximately 75 percent of the land in question.

We will hear testimony from these directly affected landowners that will emphasize how this involuntary inclusion within a National Park Service boundary will affect the value of this land, and the future of agriculture in this area that their families have protected for over 100 years!

We will also hear from officials representing Marin County and the Marin Agricultural Land Trust to explain why Federal taxpayers must bail out the most wealthy per capita income county in the United States, by purchasing development rights on privately owned land that is already protected from development by local

zoning, and comprehensive State of California programs, such as the Williamson Act and the Coastal Zone Management Act.

Finally, we will hear that the Congress has already provided a voluntary, agricultural conservation easement program on a national basis in the 1996 Farm Bill. H.R. 1995 attempts to fund agricultural easements through the National Park System at a time when the land acquisition backlog is over $1.2 billion. The bill intends to place a burden on the Land and Water Conservation fund of $30 million, to an estimated $80 million, to enhance Point Reyes National Seashore and the Golden Gate National Recreation Area for which the American taxpayer has already paid over $145 million for land acquisition, and will spend more this year!! The hearing today is before the Subcommittee on National Parks and Public Lands, there should be no mistake that H.R. 1995 is a park expansion bill, not an agricultural bill!

STATEMENT OF HON. ENI F.H. FALEOMAVAEGA, A DELGATE TO CONGRESS FROM AMERICAN SAMOA

Mr. FALEOMAVAEGA. Mr. Chairman, thank you, and I would also like to offer my personal welcome to Congressman Ryun of Kansas, and our good friend, Congresswoman Lynn Woolsey from California.

Mr. Chairman, we're here this morning to receive testimony on two pieces of legislation, H.R. 2438, by Mr. Ryun of Kansas, to amend the National Trails System, and H.R. 1995, by Congresswoman Woolsey of California, to protect the farmland at Point Reyes National Seashore.

In 1983, Congress amended the National Trails System Act to set up a process through which railroad corridors would be converted into recreation trails on an interim basis. This program has been extremely successful thus far, resulting in 123 railbanked corridors in 26 States, comprising some 3,412 miles of recreation trails. And recreation trails have been reactivated to rail service in Ohio and Washington.

The Rails to Trails program provides the public with the opportunity to enjoy outdoor recreation activity on land that would have otherwise remained under the authority of railroad companies and closed to the public. For the railroad companies, this program provides for railroad rights-of-way to be maintained and preserved until the company reinstates future rail lines as needed. Through this program, Federal, State, and local governments have not only worked cooperatively among themselves, but also with private business interests, preservationists, and outdoor enthusiasts.

In 1992, the National Park Service, together with Penn State University, conducted a study of trail problems to the neighbors and its effects on local businesses. Some land owners with property adjacent to rail corridors fear that a recreation trail would bring problems to their neighborhood. However, one of the study's results found that 87 to 97 percent of adjacent landowners found that having a recreation trail either had no effect or increased their property values.

I am concerned about the impacts enactment of H.R. 2438 would have on this program. Provisions affecting the abandonment status of rail-banked corridors and applicability of State laws may hinder this important and popular program.

H.R. 1995, the Point Reyes National Seashore Farmland Protection Act, addresses a problem in Congresswoman Woolsey's district of Marin and Sonoma Counties in California. There have been nu-

merous public meetings on this legislation among the affected landowners, Federal and local officials.

In July 1995, the National Park Service released a study which they were directed to undertake by this Committee confirming the need to protect farmlands in this area. To date, the local community has contributed in excess of $15 million toward the acquisition of conservation easements.

I want to commend Congresswoman Woolsey for her fantastic work on this piece of legislation and her dedication and hard work on this matter, and I look forward to hearing the testimonies from the witnesses concerning these two pieces of legislation.

Thank you, Mr. Chairman.

Mr. HANSEN. Thank you. The gentleman from Minnesota.

[The prepared statements of Mrs. Boxer and Mr. Hefley follow:]

STATEMENT OF HON. BARBARA BOXER, A SENATOR IN CONGRESS FROM THE STATE OF CALIFORNIA

As with many of our national parks, monuments and other protected treasures, the character and beauty of the Point Reyes National Seashore are threatened—not by development or environmental degradation within the national seashore—but by proposed development outside the boundary line over which the Park Service has no control.

The Point Reyes National Seashore Farmland Protection Act of 1997 is an innovative proposal which will ensure that the ecological integrity of the Point Reyes National Seashore is protected for future generations, while also preserving the property rights and historic agricultural use of the farmland in the area. I am pleased to be introducing the Senate companion legislation next week.

The legislation establishes a Farmland Protection Area adjacent to the Point Reyes National Seashore within which willing farmers and ranchers will have the opportunity to sell conservation easements for their land. The Farmland Protection Area includes 38,000 acres of the eastern shore of Tomales Bay visible from within Point Reyes. Property owners within that area will be available, but not required, to sell conservation easements to their land.

Conservation easements are legal agreements between a land-owner and a land trust (non-profit) conservation organization. The conservation easements restrict development on the land which is incompatible with the agricultural uses of the land. The easements would not expand public access, pesticide regulations, hunting rights, etc. Furthermore, the easements will remain with the land in perpetuity providing security for ranchers as well as continued protection for the national seashore.

The easements will allow existing agriculture activities to continue and will preserve the pastoral nature of the land adjacent to Point Reyes National Seashore and the Golden Gate National Recreation Areas by guaranteeing no new development.

I believe this legislation will become a model for land conservation across the nation as governments lack the funds to purchase fee title to protect valuable properties from development. This approach may be used to address similar problems at other parks, wildlife refuges, and marine sanctuaries by preserving compatible land use areas that protect view sheds and prevent environmental damage.

This legislation will allow the National Park Service, working with the Marin Agricultural Land Trust (MALT), the Sonoma Land Trust (SLT), and the Sonoma County Agricultural Preservation and Open Space District (SCAPOSD) to protect this beautiful area at a fraction of the cost of acquiring title to the properties within the new boundaries. In addition, those properties would be maintained on Marin County's tax rolls.

Without this legislation, almost 40,000 acres of scenic ranch land will be vulnerable to development. This bill has the strong support of the local farmers and ranchers within the area to be protected, local environmental groups including the Marin Conservation League, effected local governments and the local chamber of commerce.

I commend Congresswoman Lynn Woolsey for her hard work and dedication to this legislation. She has been working closely with interested parties in an effort to find this innovative solution which benefits ranchers, environmentalists, the County, and the Park Service alike.

STATEMENT OF HON. JOEL HEFLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. Chairman, in 1983, the Senate Energy Committee was confronted with a growing number of railroad abandonments and began to think it was a good idea to keep some of these rights-of-way open. The result was the National Rails-to-Trails Act, probably one of the more popular programs of recent years.

As a supporter of both recreational trails and private property rights, I have a particular interest in—and concern over—the bill before us today. Based upon what little I know about Kansas property law and settlement patterns, Mr. Ryun may have a point—in his home state. But I don't think it's wise to adopt a blanket remedy for a problem that happens in scattered states or regions. In Kansas, the railroads may well have sold land to farmers with a reversionary right. If that is the case, then it would seem they are due compensation and there are existing laws to deal with that problem. But I do not know whether the same situation exists in Colorado or Oklahoma or in the West at large, in other parts of the country or even in other parts of Kansas. If we are going to protect private property rights, we must protect all private property rights, whether they belong to the farmer, the railroad or the United States.

I am further concerned about whether this bill will damage the alleged underlying purpose of the 1983 law, that is to preserve transportation corridors for possible future use. It may seem absurd to us, while we lose approximately 3,000 miles of railroad trackage each year, to worry about whether we'll need rail rights-of-way in the future. But as a national policy body, we must. By yielding these rights-of-ways, we may forever lose the option of their use as a transportation corridor. It does no good to say we can declare a public use easement if that need arises. The country is growing. Costs would likely preclude any such future construction. I do not know whether we can allow individual states to opt out of a national transportation plan any more than we could allow them to opt out of the Interstate Highway System.

In conclusion, I believe we should tread warily on this issue. Reportedly, the Senate Transporation Committee worked on this issue for two years without resolution and the subject has been constantly revisited since 1983. The issue has worked its way to the U.S. Supreme Court on at least two occasions. Private property rights are a constitutional issue that should be dealt with seriously. But we should not trash a successful program and our future needs without careful deliberation.

STATEMENT OF HON. BRUCE VENTO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. VENTO. Thank you, Mr. Chairman. I'm a sponsor of the Point Reyes National Seashore Protection Act. This is a bill that has received a good deal of focus and study over the last 6 or 7 years. It was initiated by the local authorities in terms of the county and then picked up by the Congresswoman in terms of pursuing a Federal participation in the role.

It represents an important step forward in terms of enhancing and trying to accommodate the Point Reyes National Seashore experience, the basic designation. This proposes to protect through wholly voluntary agreements—it's a voluntary program in terms of buying the scenic easements and maintaining the farm and dairy character of the lands—the farmlands and agricultural lands adjacent to Tomales Bay.

It's an area if you visit, Mr. Chairman, you would recognize that when you're in Point Reyes you're looking directly over at these particular lands. As I said, there's been substantial dollars already raised locally to participate in the program. The major county involved has taken the lead in this, but they need our cooperation. We need to coordinate our activities with the county and the Park Service to achieve the objectives that are envisioned here.

This is a park where nearly 2.5 million visitors a year experience this, merely 50 miles north of San Francisco. It's an important resource and one that affords us an economical and efficient way, in

terms of a partnership, an important partnership, to try and conserve and maintain the rural character on a voluntary, willing-seller basis with regard to the purchase of these covenants that are envisioned in the bill.

And so it has received—the Park Service has studied it—I think we will get support. There is substantial agreement; there isn't absolute agreement, but I don't think we should be too amazed by that. I think, though, that the work has been on this, and I think the bill has a goodly amount of merit, and, hopefully, we can work through whatever differences remain and act positively on it.

I also note that we're hearing a bill that modifies the basic Rails to Trails law, one of the more innovative proposals. Across the country we've seen substantial rail abandonment or the cessation of the use of rails on many of the lines, and these have turned into one of the most important recreational resources that are available in many of our areas.

It affects greatly—now here's an area that affects a lot of urban areas, Mr. Chairman, and suburban areas, and in spite of the fact that adjacent landowners have often voiced concerns, after the trails are established, as high as 70 to 90 percent have voiced an affirmative response that it actually has enhanced the value of the lands adjacent to it, because of the desirability of being close to a resource of this nature.

So, I, myself, am a frequent user of such trails, and I think and I find that the ones in and around—we have trails that stretch in Minnesota for hundreds of miles, and they are an extremely valuable resource and, I think, point the direction of recreation into the next century. So I am very concerned about any changes that might occur to that which would discourage the temporary railbanking, which I think is a good compromise and/or, in other words, would eviscerate the effect of converting these trails to recreation use.

So I hope we can work our way through that and try to put in place the proper safeguards to assure that there are some hearings and some review of that, but that we would keep in place the progress, the evolution of these rail sites into trails for the broad public use, Mr. Chairman. So I look forward to the hearing today.

We will be interrupted, I understand. Our Committee has responsibilities on the floor, and I certainly, while I'm interested in these topics, will be most interested in addressing the concerns on the floor, as may other members.

Thank you, Mr. Chairman.

Mr. HANSEN. I thank the gentleman. The gentleman from California, Mr. Pombo.

The gentleman from Michigan, Mr. Kildee.

Mr. KILDEE. I am primarily here to listen to my spiritual confessor, Lynn Woolsey.

Mr. HANSEN. We're happy to have our two colleagues with us at this time. We'll turn to The Honorable Jim Ryun and The Honorable Lynn Woolsey.

Mr. Ryun, take whatever time you need, and the floor is yours—and we'd also like to welcome our colleague from Missouri who is with us at this particular time.

Mr. Ryun.

STATEMENT OF HON. JIM RYUN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. RYUN. Thank you, Mr. Chairman, for scheduling the hearing today on my bill, H.R. 2438, the Railway Abandonment Clarification Act.

I would like to also thank all of the witnesses who have taken time and spent their money coming here to testify on behalf of my bill. Also, I would like to request unanimous consent to submit additional testimony to be made part of the record.

Mr. HANSEN. Without objection, so ordered, and all additional testimony will be part of the record.

[The information referred to follows:]

Mr. RYUN. And I'd also like to take a moment of privilege and introduce my colleague, who you've already mentioned from Missouri, Kenny Hulshof, who would like to make an introduction.

Mr. HULSHOF. Thank you. It's my privilege to be here. I'm not intending to offer testimony, but I do appreciate the efforts that Mr. Ryun has made with this bill.

I am privileged and honored to welcome two constituents here today, one of whom you'll be hearing from. With all due respect to the gentleman from Minnesota, assuming that the numbers "70 percent to 90 percent of landowners are now appreciative of the Rails to Trails," I think you're going to hear some compelling testimony today from the minority of the 10 percent to the 30 percent, particularly Jayne Glosemeyer and her husband, Maurice, who have come from the 9th Congressional District of Missouri, from Marthasville, that have a farm there. They have the situation of an abandoned railway that has been turned into a trail area, and they're going to talk about some of the realities and some of the difficulties and challenges that they've faced.

So, I'm here in support of them, and, again, appreciate the gentleman allowing me the privilege of introducing the Glosemeyers to you and to this body. Thank you.

Mr. RYUN. Mr. Chairman, I'm here today to discuss a fundamental constitutional right, and that is the right to own property. This right is a pillar of our democracy and there is a Bill of Rights to protect that.

My legislation addresses the rights of property owners whose land once held a railway track that was running through it. Specifically, the Act allows States to participate in the process of determining how abandoned railways are developed into recreational trails.

From the start let me say one thing and make it very clear: I support the development of trails. I've enjoyed trails; I want my children and future grandchildren to have the opportunity to use trails, and I believe that the quality of trails can add economic benefits to some communities. Although I have run on more miles than I care to count on trails, and they are wonderful, they're safe, my desire to run on a smooth surface should not come at the expense of property owners whose constitutional right hangs in the balance.

These property owners are farmers—you're going to hear from some of them today—homeowners, and small business people. When many of these folks in my district approached me with their concerns about the way railways are currently converted into trails,

I found the root of their concern to be the very thing that American people have rejected time and time again, and that is one-size-fits-all Federal law—the Washington mentality, that type of law that is based on power, that gives power to the few at the expense of the majority.

When the Rails to Trails Act was first introduced in 1983, it was not given careful consideration in Congress, and, consequently, its impact was not understood. The Rails to Trails Act was passed by the House of Representatives under suspension of the rules in March 1983 and was debated for only 20 minutes in the Senate. This expedited schedule resulted in a simple misunderstanding. While many railways ran on Federal property, it was not mentioned that many other railroad rights-of-way are held on private property.

Unfortunately, the unintended consequences of the Rails to Trails program is that individual property rights are suspended and special interest groups, under the color of law, are allowed to use private land for public purposes without providing due process or compensation for property owners.

The controversy over the Rails to Trails program boils down to the fact that much of the railbanked land actually belongs to private landowners, and these landowners are completely denied, even under the slightest opportunity, to participate in the decision-making process with regard to how the trail will be developed on their property.

Here's what actually happened to one my constituents. This farmer and his family have owned a piece of land near Topeka for almost 150 years. The farmer allowed the railroad to lay a railway—the ties and the track—across the land and use the land by granting the land to the railroad as an easement. But keep in mind, the farmer continued to own that land. When the railroad stopped operating its trains and removed its tracks and railroad bed, the farmer still owned that land; nothing had really changed. However, the Federal Government told the farmer that he couldn't use his own land after the railway was taken away. Instead, the government told the farmer that his land was not considered abandoned and he would not be able to use it, and it was used then for a public recreation trail.

To add insult to injury, special interest trails groups with no public accountability are authorized to establish these trails on privately owned land. Therefore, the farmer becomes the proverbial David against the trail group's Goliath, which is armed with lawyers and the power of the Federal Government. This is all accomplished through legislative sleight-of-hand.

The National Trails System Act states that interim use of a railway is defined as bicycling, cross-country skiing, day hiking, equestrian activities, jogging or other similar activities. Furthermore, the Rails to Trails Act, which amends the National Trails System Act, states that interim use should not be treated as—and this important—railway abandonment, and the Surface Transportation Board shall not permit abandonment. So abandonment really does not equal abandonment.

Common sense, on the other hand, would suggest that interim use is abandonment because you cannot run, bike, ride your horse,

ski, or whatever, on railroad tracks. Interim use and railroad are mutually exclusive; you cannot have one with the other.

The Rails to Trails Act tramples on the rights of property owners and tramples on the rights of many State governments. For example, Kansas law states that when a railroad ceases to use its tracks on the farmer's property and the trains stop rolling, the use of the land automatically reverts to the rightful land owner? Why? Because the farmer owns the land and can do with it as he pleases once the trains and the tracks are gone. Through definitional sleight-of-hand, the Federal Government has thrown out State law relating to reversionary property rights, and suddenly a person's private land had become, if you will, public.

Those in favor of trail development argue that changes in the Rails to Trails Act are not warranted because of the significant popularity and the economic benefits of recreational trails. Trail advocates say further that railbanking rail corridors is vital to the country's transportation infrastructure because it preserves valuable rail corridors for the future.

And lastly, trail advocates state that the Supreme Court has ruled that railbanking is constitutional, and that those property owners who believe a taking has occurred should file with the U.S. Court of Claims for their day in court and receive compensation.

It is true that property owners can file in the Claims Court. Small Kansas farmers, however, do not have the financial resources to hire an attorney to jump through the administrative hoops and to spend the money to fight for compensation on a 100-foot wide easement that they know is really theirs. We can all do the math. It is not worth spending $100,000 in attorney's fees to be compensated for confiscated land worth about $30,000. In fact, not a single aggrieved property owner has been compensated in the 14 years of the Rails to Trails program. And I think that point is very important to make, and at this point no one has been compensated through all of these years as a result of what we define as a "taking."

Also, my bill removes the one-size-fits-all-mandate that converts abandoned railways into recreational trails. It does not diminish the Surface Transportation Board's authority to preserve our national corridor system. Instead, it gives discretion to the Surface Transportation Board to certify trail use, but does not require it. In this way, railbanked corridors do not have to hold a recreational trail. Instead, railbanked land could be used by landowners for farm or range land or any other purpose until rail use is reinstated.

I can assure the Committee that reinstating a railway over a crop of wheat is no more difficult than reinstating a railway over a trail. In this way, the STB can continue to preserve the valuable railway corridors in compliance with State abandonment law. The Railway Abandonment Clarification Act takes a common sense approach. It balances the approach to the Federal treatment of railway abandonment and the development of recreational trails.

The Act will ensure that farmers and property owners have a voice in how the land will be used. It will conform Federal railway abandonment law to the Constitution. It will preserve a State's rights to determine private property issues and to continue the en-

couragement and development of trails, and that's very important. Sometimes I've argued against that I am against trails—I am very much for trails.

Let's look at this last point for a moment, if I might. H.R. 2438 does not repeal the Trails Act or prevent the development of trails on private property. Instead, it continues to encourage States to develop trails. The Railway Abandonment Clarification Act encourages trail development by returning this power to the States and allowing them to determine how trails will be developed. H.R. 2438 corrects the problem of current law, while maintaining railbanking and appropriate trail development.

Mr. Chairman, I would like to conclude my testimony with a quote from James Madison, illustrating the foresight of our Founding Fathers. He said this in 1792, and I'd like to quote it for you. Madison said: "That is not a just government, nor is property secure under it, where the property which a man has in his personal safety and personal liberty, is violated by arbitrary seizures of one class of citizens for the service of the rest."

I urge quick consideration of this bill so that the landowners can regain the use of their land, and I'd be happy to answer any questions at this time.

[The prepared statement of Mr. Ryun follows:]

STATEMENT OF HON. JIM RYUN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Thank you, Mr. Chairman, for scheduling this hearing on my bill, H.R. 2438, the Railway Abandonment Clarification Act. I am here today to discuss a fundamental constitutional right—the right to own property. This right is a pillar of our democracy and my bill aims to protect that right.

My legislation addresses the rights of a property owner whose land once had railroad tracks running through it. Specifically, the Act allows states to participate in the process of determining how abandoned railways are developed into recreational trails.

Before I address what my bill does, however, let me make one thing clear: I support trail development. I enjoy trails; I want my children and grandchildren to have the opportunity to use trails; and I believe that quality trails can add economic benefits to some communities. Although I have run more miles than I can count on trails, my desire to run on a smooth surface should not come at the expense of property owners whose Constitutional rights hang in the balance.

These property owners are farmers, homeowners, and small business people. When many of these folks in my district approached me with their concerns about the way railways are currently converted into trails; I found their concerns to be the very thing that the American people have rejected time and time again: a one-size-fits-all Washington-based law that gives power to the few at the expense of the majority.

When the Rails to Trails Act was first passed in 1983, it was not given serious consideration in Congress and consequently its impact was not understood. The Rails to Trails Act was passed by the House of Representatives under suspension of the rules in March of 1983, and was debated for only twenty minutes in the Senate. This expedited schedule resulted in a simple misunderstanding: while many railways run on Federal property, it was not mentioned that many other railroad rights-of-way are held on private property. Unfortunately, the unintended consequences of the rails to trails program are that individuals' property rights are held in abeyance and special interest groups are allowed to use private land for public purposes without providing due process or compensation to the property owners.

In a nutshell, the controversy over the Rails to Trails program boils down to the fact that much of the railbanked land actually belongs to private landowners, like the good farmers in my district. Here is what actually happened to one of my constituents who is a farmer.

This farmer owns a piece of land near Topeka, Kansas. The farmer allowed a railroad to lay a railway (the ties & track) across his land and "use" the land by granting the railroad an easement. But, keep in mind, the farmer still owns the land.

When the railroad stopped operating its trains and removed its tracks and railway bed—again the farmer still owns the land. However, the problem is that the Federal Government told the farmer that he couldn't use his own land after the railway is taken away. Instead, the government told the farmer that his land is not considered abandoned and will be used as a public recreation trail.

To add insult to injury, its not even the Federal Government that determines where trails will be developed. Special interest trails groups, with no public accountability, are authorized to establish these trails on privately owned land. Therefore, the farmer becomes the proverbial David against the trail group's Goliath, which is armed with a league of lawyers and the power of the Federal Government.

This is all accomplished through legislative sleight-of-hand. The National Trails System Act states that interim use of a railway is defined as bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities. Furthermore, the Rails to Trails Act, which amended the National Trails System Act, states that interim use shall not be treated as railway abandonment and the Surface Transportation Board shall not permit abandonment.

In essence, the Federal law states: abandonment is NOT abandonment. Common sense, on the other hand, would suggest that interim use IS abandonment because you cannot run, bike, ride horses or ski on railroad tracks. Interim use and railroad use are mutually exclusive; you cannot have one with the other.

The Rails to Trails Act tramples on the rights of property owner's and tramples on the rights of many State governments. For example, Kansas law states that when a railroad ceases to use its tracks on the farmer's property—and the trains stop rolling—the use of the land automatically reverts to the rightful landowner. Why? Because the farmer owns the land and can do with it as he pleases once trains and tracks are gone. Through definitional sleight-of-hand, the Federal Government has thrown out state law relating to reversionary property rights and suddenly a person's private land has become "public."

Those in favor of trail development will argue that changes to the Rails to Trails Act are not warranted because of the significant popularity and economic benefits of recreational trails. Trails advocates say further that railbanking rail corridors (the policy that prevents the reversion or rights-of-way to property owners for potential future railway use) is vital to the country's transportation infrastructure because it preserves valuable rail corridors for the future. Lastly, trails advocates state that the Supreme Court has ruled that railbanking is constitutional and that those property owners who believe a taking has been made can file in the U.S. Court of Claims for their day in court to receive compensation.

It is true that property owners can file in Claims Court. Small Kansas farmers, however, do not have the financial resources to hire an attorney to jump through the administrative hoops and spend the money to fight for compensation on a 100 foot wide easement that they know is theirs. We can all do the math: it is not worth spending $100,000 in attorney's feeds to be compensated for land worth about $30,000. In fact, not a single aggrieved property owner has been compensated in the 14 years of the Rails to Trails program.

The Railway Abandonment Clarification Act takes a common-sense, balanced approach to the Federal treatment of railway abandonment and the development of recreational trails. The Act will ensure that farmers and property owners have a voice in how their land will be used. It will conform Federal railway abandonment law to the Constitution; preserve a State's right to determine private property issues; and continue to encourage trail development.

Let's look at this last point for a minute. H.R. 2438 does not repeal the Trails Act or prevent the development of trails on private property. Instead, it continues to encourage states to develop trails. The Railway Abandonment Clarification Act encourages trail development by returning this power to the states, allowing them to determine how trails will be developed.

My bill removes the "one-size-fits-all" mandate that converts abandoned railways into recreational trails. Instead, it gives discretion to the Surface Transportation Board to certify trail use, but does not require it. In this way, railbanked corridors do not have to hold a recreational trail. Instead, land could be used by landowners for farm or range land or any other purpose until rail use is reinstated. In this way, the STB can continue to preserve valuable railway corridors and can allow state abandonment law to revert railway corridors that are dead-ends or are remotely located.

Let's be clear. Again, in many cases, the farmer owns the land. He owns the soil and everything beneath the ties and tracks. The ties and tracks belong to the railroad. When the railroad removes those tracks and ties, there is nothing left but the land owned by the farmer.

But the Federal Government does not believe that Kansans, or other Americans, know best how to use their own land. Instead of making the rights of private property a priority, the government has made recreational use for certain citizens a priority.

This is poor Federal legislation and needs to be rectified. H.R. 2438, The Railway Abandonment Clarification Act—will change this law and restore private property rights issues to the states.

Mr. Chairman, I would like to conclude my testimony with a quote from James Madison, illustrating the foresight of our Founding Fathers. He said, in 1792:

> "That is not a just government, nor is property secure under it, where the property which a man has in his personal safety and personal liberty, is violated by arbitrary seizers of one class of citizens for the service of the rest."

H.R. 2438 corrects the problems in the current law while maintaining railbanking and appropriate trail development.

Mr. HANSEN. Thank you very much. Lynn Woolsey, we'll turn to you.

STATEMENT OF HON. LYNN WOOLSEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. WOOLSEY. First, I'd like to thank you, Mr. Chairman, for holding this important hearing. I know how busy your schedule is, and I truly, truly appreciate your willingness to have a hearing on this important piece of legislation. Thank you.

I'd also like to extend my appreciation to Chairman Young and to the Committee for their interest, and your interest, in the bill.

Today you will hear from a variety of people about the Point Reyes National Seashore Farmland Protection Act. I'd like, particularly, to recognize three of my constituents who have traveled to Washington to demonstrate the breadth of support which this bill enjoys in my district. I want to thank them for sacrificing their busy schedules and being here today: Marin County Supervisor, Steve Kinsey; Marin Agricultural Land Trust Executive Director, Bob Berner, and Sharon Doughty, West Marin Chamber of Commerce member, Marin County Farm Bureau member, and landowner.

There are many others in the audience, Mr. Chairman, who have also traveled to demonstrate their support, and I want to thank them, too.

In addition to submitting my written statement for the record, I'd also like to submit letters of support for this bill to be included in the hearing record.

Mr. HANSEN. Without objection.

[The information referred to may be found at end of hearing.]

Ms. WOOLSEY. Mr. Chairman, earlier this year the American Farmland Trust released a shocking statement: "Nationwide, almost 50 acres of prime and unique farmland are being destroyed every hour, every day." This loss of productive farmland threatens not only the lifestyle of small farmers, but also the economic and environmental stability of our community.

In my district, Marin County alone has lost 32,000 acres of farmland since 1952. The Point Reyes National Seashore Farmland Protection Act, H.R. 1995, is a unique solution to this growing problem in our country. How do we protect disappearing farmland while simultaneously protecting our natural resources?

The fundamental problem we face in Marin and Sonoma Counties is the threat of development. The lands in the proposed farm-

land protection area are sandwiched between 6.5 million people who live in the San Francisco Bay area and the Point Reyes National Seashore, one of the 10 most heavily visited national parks in this country. As more and more visitors discover the beauty and the majesty of this area, Mr. Chairman, the pressures for development become greater and greater.

By authorizing the purchase of agricultural conservation easements, this bill enables willing landowners to remain in agriculture. The great beauty of this legislation is that the local residents developed a solution which works for them. It is based on former Marin County Supervisor Gary Giacomini's vision, and it builds upon existing successful land trust and open space district programs. The organizations that monitor the agricultural conservation easements within the proposed farmland protection area are made up of local residents.

Mr. Chairman, landowners will not be dealing with bureaucrats in Washington. They will be dealing with their neighbors who best understand their needs. The Federal Government does have an interest in this area. That interest is the Point Reyes National Seashore. The purchase of agricultural conservation easements protects agriculture, while defending the Nation's investment in the seashore from incompatible land uses in the surrounding areas.

H.R. 1995 creates a 38,000-acre farmland protection area. Landowners in the area qualify for the benefits of agricultural conservation easements. Landowners outside the area do not. H.R. 1995 authorizes $30 million for the Federal Government to partner with the local community in a dollar-for-dollar match. The local community has already invested $15 million in this area.

H.R. 1995 does not grant any additional powers to the Federal Government. It authorizes a voluntary program. It ensures that the land remains on the tax roll, and it protects private property rights. If a landowner chooses not to participate, life remains unchanged.

Mr. Chairman, I've held public meetings, and I've had individual meetings, one-on-one, with most landowners within the proposed farmland protection area. I sat in their kitchens, I heard their concerns, and I cleared up misinformation. These meetings were extremely productive, and this bill responds to the suggestions and concerns that I heard from the landowners.

Through these meetings, I know that the majority of impacted landowners support this bill. In addition, the great majority of my constituents support this bill. Both the Marin and Sonoma Boards of Supervisors have endorsed the plan, as well as the West Marin Chamber of Commerce. National organizations supporting this legislation include the League of Women Voters, American Farmland Trust, and the Trust for Public Land.

Currently, H.R. 1995 has 44 bipartisan co-sponsors. In particular, I'd like to acknowledge my original co-sponsor, Congressman Wayne Gilchrest, as well as the Park Subcommittee members who are co-sponsors: Ranking Member Faleomavaega, which I think was the hardest part of this testimony—making sure I got his name right—Representatives Duncan, Vento, Jones, Pallone, and Hinchey, and Delegate Christian-Green.

The landowners raised concerns about this legislation during our meetings, and in response this bill was strengthened to ensure more protection for agriculture and for landowners. Despite these changes some members, however, of the local Farm Bureau, continue to oppose the bill. However, it must be noted that the Marin Farm Bureau is split and officially neutral on this issue.

Mr. Chairman, Subcommittee members, the Point Reyes National Seashore Farmland Protection Act is a creative solution for protecting our agricultural land, a solution that balances environmental and economic needs, while at the same time respecting the rights of individual property owners. H.R. 1995 will serve as a national model for the protection of agriculture, as well as for the protection of our Nation's investment in its national parks.

The program is completely voluntary. It keeps lands in private ownership and maintains the local tax base. Through this program, we will be investing in our future by protecting our Nation's resources—both land and people. We must begin to take steps to address this need. This bill will start that process.

Thank you, Mr. Chairman. I look forward to answering any questions that you might have about this legislation.

Mr. HANSEN. Thank you. I will proceed at this point, as we have a vote on now on the rule on the grazing bill—and following that, if we could hurry back, we would have questions for our colleagues on their testimony, and then we'll go to the panels. I intend to hold everyone—members and witnesses—to 5 minutes. We've got seven panels today, and it's going to take a while to get through this, so if anybody goes over, they will hear the gavel. So, don't do something you don't want to hear.

Anyway, we'll stand in recess long enough to vote, and then I would urge members of the Committee to hurry right back.

[Recess.]

Mr. DUNCAN. [presiding] I've been asked by Committee staff to go ahead and reconvene the hearing until Chairman Hansen gets back. And we are, I understand, at the point of questioning of members, and I don't think we have too many questions of members because we want to move as quickly as we can to other panels.

But, I would like to ask Ms. Woolsey about her bill. Is your bill totally voluntary, Ms. Woolsey?

Ms. WOOLSEY. The bill is 100 percent voluntary, Mr. Duncan. It's willing seller, willing buyer.

Mr. HANSEN. [presiding] The gentleman from Tennessee.

Mr. DUNCAN. Would any agency of the Federal Government have any increased authority or power over this land?

Ms. WOOLSEY. No. In fact, because of the concern in that regard and a discussion I had with Representative Tom Campbell, I have agreed to an author's amendment to the bill when we do get to markup; and that language would say that, "no lands or interest in lands may be acquired by the Secretary within the farmland protection area without consent of the owner thereof." That is the intent in the bill, and we will have it in the bill when the bill gets to the next step.

Mr. DUNCAN. Would any of the farmers there now, anybody who wanted to farm the land later—it's my understanding that a farm-

er who has this land now would be able to sell the land later to somebody who agreed to keep it in agricultural use. Is that correct?

Ms. WOOLSEY. Absolutely.

Mr. DUNCAN. Would they have to get permission from the Department of the Interior or the National Park Service or any other Federal agency——

Ms. WOOLSEY. No.

Mr. DUNCAN. [continuing] to sell the land or do anything else on the land? If they wanted to expand their farm by adding a barn, for instance, or doing anything else consistent with agricultural use, would they have to get permission from the Department of the Interior or the National Park Service or any other Federal agency?

Ms. WOOLSEY. They would not have to get permission from any Federal agency. They would go through the Land Trust with whom they negotiated their easement and their agreement.

Mr. DUNCAN. Now what does that mean—that they would have to get permission from the Land Trust?

Ms. WOOLSEY. The Land Trust will monitor the easements. Landowners negotiate a contract with them about how they're going to use their land. And certainly a barn, a residence for a farm worker or for one of their kids—all of that—they've been doing that already in the 15 years that the Marin Agricultural Land Trust has had easements. We have excellent experience in that regard, that there's no controversy as the land remains in agriculture.

There's no control over pesticides; there's no control over hunting; there's no public access availability in this bill. Public access would be dependent on the landowner wanting public access and having that land purchased by the Federal Government, but they would have to ask for it.

Mr. DUNCAN. All right; thank you very much.

Mr. HANSEN. Thank you. The gentleman from American Samoa, you're recognized for 5 minutes.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. Congresswoman Woolsey, obviously there were, according to your testimony, there were landowners that were opposed or still are opposed to the proposed bill. Can you elaborate how—I'm sure that in the course of the hearings and the meetings that you've held with the community people, including the landowners—can you tell the Committee what the basis is of how you draw the conclusion that, as far as you're concerned, the majority of the landowners support the legislation?

Ms. WOOLSEY. Well, as I said, I met one-on-one, actually in kitchens, at the kitchen table, with the majority of the landowners. And talk about a group of wonderful people—let me tell you; it was my privilege to be there, not their privilege to have me. During these meetings it became very clear that there was a lot of misinformation. Once I got there, we talked through the bill and what it really means—that it is voluntary, that they don't have to be a part of it if they don't want to, and that their lives won't change if they choose not to participate.

Once they realized that the easements would be based on fair market value, that the Federal Government would not have a reach into their lives, and that their private property rights would

be protected, the great majority—there is a small, vocal minority, believe me—but the great majority of landowners said, "All right, even if I don't want to participate, I have no problem doing so." And I feel very secure in telling you that the majority of the landowners support it.

Mr. FALEOMAVAEGA. A couple of days ago—and I'm sure with all of the other members of the Subcommittee—I received a letter from a Mr. Echeverria, the president of the California Cattlemen's Association in opposition to H.R. 1995. Would you care to comment on that?

Ms. WOOLSEY. Well, yes; I would. I read that letter myself. First of all, only 3 percent of Cattleman's Association members live in my district, but they sent out this letter about this bill that is very, very inaccurate. I mean, it comes close to being lies, actually. So, to clarify it, agricultural conservation easements will be negotiated and monitored with willing landowners by the local Land Trust organization, not the Park Service as they stated. These easements will keep the land in agriculture, in perpetuity. When the landowner dies, the land doesn't go to the Park; it stays in the family like any private property would.

Mr. FALEOMAVAEGA. I want to share a thought with my friends from across the aisle that I don't believe in the encroachment of the Federal Government, too—perhaps you might say selectively.

Now you've indicated earlier in your testimony that your bill does not add more power to Big Brother—the Federal Government—to coming in there and taking control of the lives of the people who live or will be affected by the proposed legislation. Would you care to comment on that?

Ms. WOOLSEY. We have, throughout the authoring of this bill, been very careful to make certain that the Federal Government does one thing and one thing only—it provides a partnership in funding with the local agencies so that we could keep this land in agriculture in perpetuity. This is about farming. This is about agriculture—and with the Tom Campbell language that I've agreed to, it couldn't be clearer that there's nothing in this bill to give the Park Service more control over that land.

The farming around the borders of the Point Reyes National Seashore really does protect our investment in that existing national park, which is one of the most visited national parks in the country. So it makes a difference to our investment in the existing park; it makes a difference in keeping agriculture alive in my district and in the Nation.

Congressman Ryun, you're not being neglected here. I just have one question on your proposed legislation. You're just simply saying that the landowners deserve to have due compensation for the taking.

Mr. RYUN. That's correct, and that's one of the processes we're trying to establish with this particular Act.

Mr. FALEOMAVAEGA. OK; and is it your opinion that the Federal Government should be the one that is paying these landowners for the taking?

Mr. RYUN. Not only my opinion, but it's the opinion of the Supreme Court, as well.

Mr. FALEOMAVAEGA. OK. And I understand that there is ongoing court litigation on this very issue. This is nothing new. I mean, I notice you have about seven trails in Kansas, according to the——

Mr. RYUN. Yes; we have some that are developed and some that are being considered. I think when you get to the testimony you'll hear some compelling testimony, not only by landowners that have been affected, but by some of the court decisions that have already been rendered.

Mr. FALEOMAVAEGA. OK; thank you, Mr. Chairman.

Mr. HANSEN. The gentleman from California, Mr. Pombo.

Mr. POMBO. Thank you, Mr. Chairman. Ms. Woolsey, you've said that your legislation is voluntary, and I have looked through it, but I fail to see—normally in a legislation such as this that the author intends to be voluntary, there will be a section on that particular subject that outlines what the voluntary participation is and what the options are for the particular private property owners, and there is not one included in this particular legislation.

Ms. WOOLSEY. Well, if the gentleman would like to work with my office in that regard, like we did with Representative Campbell, we're more than willing to define what the intent of a boundary is. I can tell you what the intent is with this bill, and that's that we create a choice for the landowner.

Those who are within this farmland protection area have the option of an agricultural easement. Those who are not within that area do not have that option, and that's exactly what this is about. It's defining where the Federal Government would have an interest, an interest enough to invest money over time through appropriations after the bill is authorized.

Mr. POMBO. Your legislation allows the purchase of lands within the farmland protected area that are in danger of being developed or under threat of being developed. Whose definition of "under threat of being developed" are we going to use?

Ms. WOOLSEY. Well, I think the community at large probably would have more to say about that than either of us here in Washington. But it would be willing seller in that regard, and that's what is strengthened in the language—through Mr. Campbell's language.

Mr. POMBO. Unfortunately, this legislation—you're incorrect in one thing—the community would have less to say about it than the members of this Committee, because if the Secretary of the Interior is the one that is going to be purchasing the lands, it will be a Federal decision that is made. Therefore, the definition of "under threat of development" is more likely to be a definition that is used by the National Park Service or the Department of the Interior or the particular committee—this being the Resources Committee, the Committee of jurisdiction.

Ms. WOOLSEY. Well, my point in saying local is that the negotiations will be through local land trusts and open space districts. But, remember what the intent of this bill is. The intent of this bill is to keep land in agriculture. One of the reasons we haven't tried to use State programs is that the State tends to turn the land back in to parks. That isn't the intent of this bill. The intent of this bill is to keep this land in agriculture because that is the best use of

the land, and it's also the best protection for the Point Reyes National Seashore.

So, keeping that in mind, the people who lived in the area which is now the Pt. Reyes National Seashore were very frightened of the same things that you're talking about. Now, 100 percent of those who are currently farming in the National Seashore have signed a petition saying they are very satisfied with their relationship with the National Park Service. So, we will keep our agreement, and the agreement is to keep this land in agriculture in perpetuity—willing seller, willing buyer.

Mr. POMBO. One final question for you. The land is currently zoned as agricultural land; that's the current zoning that's on the property. The local people have made the decision that that is the zoning that they want, that they want to keep it in agriculture, that that is the purpose of that land in the county zoning at the current time. Why do you think it is necessary to go beyond what the local people have instituted to put in Federal legislation or a Federal designation on that particular piece of property?

Ms. WOOLSEY.Now, for the same reason that we have the Marin Agricultural Land Trust and the Sonoma County Open Space Districts, these lands are under great threat of development. It is a miracle that that land is still in productive agriculture, but it's because it's been owned by three and four generations of farmers that are dedicated to that lifestyle. There are pieces of property proposed for development right now within that area that are before the Board of Supervisors. Over time, that threat is getting greater and greater, and I believe that it's in the best interest in protecting our existing investment in the National Seashore, and also in protecting——

Mr. POMBO. I don't want to interrupt you, but I've run out of time. You've said that the local people support keeping it in agriculture. The local people make the decision as to how it is going to be zoned, and it's currently zoned agriculture. The local people make that decision.

No one in this room, other than you, have anything to do with how that particular piece of property is zoned. And yet you seem to be concerned that the local people may change their minds and want a different zoning on that particular property, so what you're asking is that we come up with a Federal zoning for that particular land——

Ms. WOOLSEY. No.

Mr. POMBO. [continuing] so that they can't change their mind and make a different decision.

Ms. WOOLSEY. No, they can change their mind. If they don't volunteer to be part of the easement program, they can go right to the Board of Supervisors, to the planning and zoning program that is existing right now in their county. I would think that Republicans would really like this bill because the land is zoned one unit for 60 acres; therefore, they don't get to develop very much of it, if any of it. And I am proposing that we offer them some financial support so they can stay in agriculture, so they can expand, so they can modernize, so they can do whatever—pay inheritance taxes. This is really paying them for not developing, which is exactly what I thought was part of the property rights initiative that you support.

Mr. HANSEN. The time of the gentleman has expired. The gentleman from Guam.

Mr. UNDERWOOD. Thank you, Mr. Chairman. I only have one question for Mr. Ryun, and just a comment on Ms. Woolsey's legislation.

Mr. Ryun, in the case of the owners of these railway easements, how far back, how many generations are we talking about in many of these cases? I mean we're not talking about——

Mr. RYUN. It's really hard, at this point, to pinpoint an exact date. I know we have many—in fact, I think there are some documents that might be available today showing some of the actual easements that were granted. My point is, it's difficult to trace it back and yet we have many documents that show that people originally gave just the right-of-way to the railroads for an interim use just for that period of time.

Mr. UNDERWOOD. Well, I'm in support of the basic thrust of your legislation, but I was just wondering, are we talking about things that could go back four, five, or six generations of families, of owners? We're talking about something that could have been over 100—no, not 100 years—maybe 100 years ago?

Mr. RYUN. Yes; that's very possible.

Mr. POMBO. If the gentleman would yield on that point. In many of these cases these easements were granted between the late 1800's and 1920, and especially on private property where you had a private property owner granting a railroad use easement on that property. A lot of those easements were given between the late 1880's and 1920's; that is when the documents were actually signed.

Mr. UNDERWOOD. OK; thank you very much. And so in that instance, even though the property owner may have changed, obviously the right to the property stayed with whoever it went to.

Mr. RYUN. And may I add something to that?

Mr. UNDERWOOD. Sure.

Mr. RYUN. And that is why the right-of-way was given, it was just for the purpose of the railroad. When the railroad left and the railways and the ties and everything left, so did the easements; so it should revert back to the original owner. That's the way the easements were established.

Mr. UNDERWOOD. Well, thank you for that. And I would just like to commend the gentlewoman from California for her legislation and for an innovative and creative way to keep alive what is a very valuable national park area.

Mr. FALEOMAVAEGA. Will the gentleman yield?

Mr. UNDERWOOD. Yes, I'd be happy to yield.

Mr. FALEOMAVAEGA. I just wanted to ask Congresswoman Woolsey just an additional question just to make sure—in the times that you've also met, does the administration support this legislation?

Ms. WOOLSEY. Yes. Actually, the Secretary has been out to the area. He came just to view it, and then when he got out of the helicopter he said, "You've sold me. I've never seen anything quite like it."

Mr. FALEOMAVAEGA. And in this whole process——

Ms. WOOLSEY. It has to stay in agriculture.

Mr. FALEOMAVAEGA. And in this whole process, there is no Federal taking, whatsoever, of land ownership.

Ms. WOOLSEY. There is no Federal taking.

Mr. FALEOMAVAEGA. And that the landowners maintain their private ownership of the lands involved here.

Ms. WOOLSEY. Private ownership on the tax rolls—willing seller, voluntary involvement. What participating means is that land stays in agriculture in perpetuity. It can only be sold for agriculture or for open space, but our goal is to keep it in agriculture.

Mr. FALEOMAVAEGA. OK. And Mr. Ryun, you're not against the trails system, you just want the landowners to be compensated?

Mr. RYUN. That's correct.

Mr. FALEOMAVAEGA. That's the bottom line of what you're asking in this legislation.

Mr. RYUN. That's partly correct. Let me qualify that; yes, we want them to be compensated, but we want them to be able to use their own land, because as it is now set up many times that land goes away, on a trail, and they're not able to use the land as it was originally intended. They have to maintain, let's say, for example, both sides of the trail with fences, whatever it might be. But, nevertheless, we want them to have the right to use that land in whatever way they choose.

Mr. FALEOMAVAEGA. So if a landowner, an adjacent landowner, has 5 acres—that wants to develop that portion—and then another portion adjacent to the trails system that goes on for 100 miles, but because of that 5 acres they'll have to go around the trails system?

Mr. RYUN. One of the reasons we wanted to return to the States is to get the State the opportunity to make that decision and get the landowners the choice of whatever they would like to do with their land.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

Mr. HANSEN. The gentleman from Guam—are there any further questions on your time?

The gentleman from Puerto Rico.

Mr. ROMERO-BARCELO. Thank you, Mr. Chairman. I'd like to ask Ms. Woolsey, is this bill—is this not only what the landowners in the area want, but also what the local leadership in your district wants?

Ms. WOOLSEY. You're correct, Carlos. Both Boards of Supervisors have endorsed the bill, as well as the West Marin Chamber of Commerce. And, we have a stack of support letters that most bills would be very glad to have. And I can tell you, the majority—the great, great majority—of the people in my district support this initiative, this legislation.

Mr. ROMERO-BARCELO. Well, I guess, who are we then to say otherwise?

Ms. WOOLSEY. Thank you.

Mr. ROMERO-BARCELO. Mr. Ryun, all you're looking for is that the land that is now being used for the trailways, that it reverts back to the landowners that are adjacent to that property? Is that correct?

Mr. RYUN. We're really dealing with the current land situation and who owns that current land.

Mr. ROMERO-BARCELO. Oh, the owners—they are the owners of the land, or was the railroad the owner of the land? Who is the owner?

Mr. RYUN. It's whoever holds the deed. In this case, we believe the majority of it goes back to the landowners—privately held.

Mr. ROMERO-BARCELO. Oh, so the land itself—the trailways themselves—were not owned by the railroad?

Mr. RYUN. No, they were not.

Mr. ROMERO-BARCELO. They were just easements.

Mr. RYUN. That's correct.

Mr. ROMERO-BARCELO. OK; thank you very much.

Mr. HANSEN. Mr. Ryun, during the last vote you mentioned you felt there was a question on what the gentleman from Minnesota, Mr. Vento, had said and you would like to clarify that answer for the record. Would you like to do that now?

Mr. RYUN. Well, the rights-of-way were paid for—and if I can say this, they were paid for, I guess, forever, but really they were only granted for a period of time. In fact, there's case law at the U.S. Supreme Court and the Court of Appeals and the Supreme Court of Indiana that all agree with the fact that that right-of-way was for a period of time and that it would revert back to the original landowners.

Mr. HANSEN. Thank you. Do any of my colleagues have further questions for this panel, for our colleagues?

The gentleman from California is recognized for 5 minutes.

Mr. POMBO. Thank you, Mr. Chairman. Mr. Ryun, I've had the opportunity to review a number of the grant deeds that were given in these cases. Typically, they would state a boundary limit that would have the property description on it. They would typically say that they were granting an easement that was 50 feet wide on either side of the track that went within this particular property, and that it was a surface easement granted for railroad purposes only; if they were ever to be given up for railroad purposes, that the underlying easement would revert to the adjoining property owners, which was the case in this country for many years, that that is what happened. In many cases, once the ICC ruled that abandonment had taken place, the property would revert to the adjoining property owners who rightfully owned the real estate.

Rails to Trails changed that, and it came in and said, unilaterally, we are taking away all reversionary property right that the adjoining property owners have, and it was done on the suspense calendar in the House; it was done with little or no debate in the Senate. I don't think anybody really realized what a massive taking had occurred when that particular piece of legislation passed, and what you are attempting to do is to correct part of that problem.

You've stated that your interest is in compensation, in the rightful compensation when a taking occurs. But in your experience, do most of these property owners want to be paid or do they want their reversionary rights returned to them?

Mr. RYUN. Most of them would really like the use of their land, because in some cases—and we'll have some shown here in just a little bit indicating that the land really cuts through the middle of their property—to the extent that maintaining fences takes away, if you will—it gives them a lot of additional liabilities. I hate to dis-

agree with some of the gentlemen that spoke earlier, but I will—that it is not as pleasant an experience for the landowners as has been projected.

And while I'm an advocate of trails and enjoy the purpose for which they are there—the families can go and participate and bike-ride on them; I enjoy running on them—I think it's very important that we look at this issue closely and give the property owners the rights that are guaranteed under the Constitution, and that is if they choose to have compensation, that's fine, but many of them just want the use of their land.

Mr. POMBO. I know that in your past life you are probably the most famous trail user that this Congress has ever had, and have supported that throughout your entire life—the creation of those trails. But I think in this particular case it's not a matter of whether or not you support trails; it's whether or not Congress is willing to do what's right.

Mr. RYUN. That's correct, and that's one of the reasons that this particular Act is being offered, and that is to return those rights back to the State, because once the Federal Government stepped in and took that right away, it changed this process enormously—and also return that right back to the individual.

Mr. POMBO. Thank you.

Thank you, Mr. Chairman.

Mr. FALEOMAVAEGA. Mr. Chairman, I——

Mr. HANSEN. The gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Chairman, I would like to ask unanimous consent to provide for the record a statement by Congresswoman Donna Green——

Mr. HANSEN. Without objection, so ordered.

Mr. FALEOMAVAEGA. [continuing] in full support of Congresswoman Woolsey's bill, H.R. 1995.

[The prepared statement of Ms. Christian-Green follows:]

STATEMENT OF HON. DONNA M. CHRISTIAN-GREEN, A DELELGATE IN CONGRESS FROM THE TERRITORY OF THE VIRGIN ISLANDS

Thank you Mr. Chairman for the opportunity to make this statement in support of H.R. 1995, the Point Reyes National Seashore Farmland Protection Act. I want to also take this opportunity to praise Congresswoman Woosley for her hard work in putting H.R. 1995 together and for getting it to this point today.

Mr. Chairman, the Point Reyes National Seashore Farmland Protection Act is a worthy bill which enjoys bipartisan support and deserves this Subcommittee's favorable recommendation. It's primary purpose is to preserve agriculture by maintaining the Point Reyes farmland in private ownership using conservation easements, following the successful nonprofit Marin Agricultural Land Trust model, which preserved over 11,000 acres of agricultural land in the proposed area over fifteen years ago. This represents a unique and creative way to lend a hand to the area farmers while protecting their livelihood.

In addition to the public/private partnership, H.R. 1995 also establishes a local/Federal Government partnership. Federal funds will be contributed to the area only after the local government has contributed its share. H.R. 1995 has also received the bipartisan support of the Marin County Board of Supervisors, the Sonoma County Board of Supervisors, the American Farmland Trust, the Inverness Association, the West Marin Environmental Action Committee and the West Marin Chamber of Commerce.

Mr. Chairman, H.R. 1995 proposes an innovative cost effective way to protect the 38,000 acres of agricultural lands adjacent to the Point Reyes National Seashore and deserves to be enacted into law.

Mr. FALEOMAVAEGA. And I was curious—in my ignorance, Mr. Chairman, I had asked you if this was the famous Jim Ryun, the olympic runner that I admired so much in my earlier years in watching him perform. And I thought it was R-y-a-n rather than R-y-u-n, but at any rate, my added congratulations for your being here before the Committee.

Mr. RYUN. Thank you—and I assume then that I can count on your support?

[Laughter.]

Mr. FALEOMAVAEGA. Well, as long as it doesn't affect the trails and that the Chairman will find the money to pay for our adjacent landowners, I think we should be able to work something out here in-between.

Mr. HANSEN. This is the famous Eni Faleomavaega, the BYU football player, in case you had any question.

[Laughter.]

Mr. FALEOMAVAEGA. Well, if the Chairman would yield, you know we have 20 Samoans that play in the NFL, and three made All-Pro last year. So that means for every 12,000 Samoans, Mr. Chairman, that live in the United States, we produce one NFL player.

[Laughter.]

Mr. HANSEN. And half of the BYU team is from American Samoa, if I may say so.

Mr. POMBO. Mr. Chairman, I would like to ask unanimous consent that a letter that was sent to me by the California Farm Bureau Federation be included in the record.

Mr. HANSEN. Without objection, so ordered.

[The information referred to may be found at end of hearing.]

Mr. HANSEN. Any further questions? The gentleman from Puerto Rico.

Mr. ROMERO-BARCELO. No further questions.

Mr. HANSEN. Ms. Woolsey, I've been trying to absorb what you've been saying here, and one part kind of bothers me in section 3(b) of your bill. It provides for the Secretary of the Interior to exchange Federal lands for lands within your farmland protection area without regard to the Federal Land Policy and Management Act of 1976—or we call that the FLPMA Act—you know, the Organic Act.

In other words, the Secretary can exchange for Federal lands outside of California—well, why do you have that provision in your bill? Because in effect, you're amending the FLPMA Act for this one provision, and that is always kind of a red flag to those of us who wade through these things daily.

Ms. WOOLSEY. Well, it was included to make sure we covered every base of how we might be able to keep this land in productive agriculture, Mr. Chairman. I'm more than willing to talk about how that gets in the way of the bill going forward. I should ask the Park Service why they requested to put it in there.

[Laughter.]

Mr. HANSEN. We'll have them on next.

Ms. WOOLSEY. This is a question for Don Neubacher.

Mr. HANSEN. Don't worry; they'll get their opportunity. The thing that bothers me, though, is that that's kind of a wide-open provision. See, what you've got here is——

Ms. WOOLSEY. If there were excess BLM estimates.

Mr. HANSEN. [continuing] somebody could—say the Department of Interior could—find a piece in southern Utah, called the Grand Staircase Escalante, and take ground out of that, or he could find it some somewhere else, and for me that's kind of a dangerous provision on that. Their estimates may be a little——

Ms. WOOLSEY. I would believe it would be, and, Mr. Chairman——

Mr. HANSEN. Would you be amenable to taking that out?

Ms. WOOLSEY. [continuing] would you ask that question to the Park Service in the next panel? Because they know why they requested it, and if it doesn't make sense we'll work with them and we'll do something differently.

Mr. HANSEN. All right; thank you. Any further questions? Apparently not. We're into this hearing 1 hour and 35 minutes; we've got a number to go.

We ask our colleagues, if they so desire, to join us on the dias, and we'll recognize them after members of the Committee if they have questions for the further panels. Thank you very much.

We'll turn to our next panel, which is Kate Stevenson, Associate Director, Cultural Resource Stewardship and Partnerships, for the National Park Service, and Evelyn Kitay—I hope I'm saying that right—senior trial attorney, Office of the General Counsel, Surface Transportation Board—if they would like to join us.

It's always good to see you, Ms. Stevenson; it's a pleasure to have you with us. We'll start with you. Keep in mind, we've got a long hearing. We've got to have this over by 2 o'clock, because we've got other people that are going to come in this room. So, we'll hold everybody to 5 minutes; you know the rules on the lights.

Ms. STEVENSON. That's fine; thank you, Mr. Chairman.

Mr. HANSEN. All right, we'll turn the time to you—may we have order in the chambers, please?

STATEMENT OF KATE STEVENSON, ASSOCIATE DIRECTOR, CULTURAL RESOURCE STEWARDSHIP AND PARTNERSHIPS, THE NATIONAL PARK SERVICE

Ms. STEVENSON. Thank you very much. We appreciate very much the opportunity to offer the views of the Department of the Interior on both H.R. 2438 and H.R. 1995. I have with me today Tom Ross, who is the Assistant Director for Recreation and Conservation, and Don Neubacher, who is the Superintendent of Point Reyes National Seashore.

We strongly oppose H.R. 2438. This bill would effectively eliminate the railbanking provision in the National Trails System Act, thus impeding preservation of rail corridors for future transportation needs, as well as hindering the creation of new trails in the interim. Railbanking is entirely voluntary on the part of the railroad and the local community. This provision of the statute merely allows those groups to decide whether and how a corridor should be banked for the future.

The National Park Service role is purely advisory. The Act directs us to encourage the development of trails on abandoned railroad rights-of-way for possible future uses. To that end, we notify State and local governments that railroad rights-of-way may be

available for trail use. The action, then, is in the hands of the community and the railroad.

Each year we receive about 150 notices of impending abandonments from the railroads. That amounts to about 2,500 miles a year. From October 1995 to October 1996, 118 corridors totaling 1,673 miles were proposed for abandonment. Communities requested railbanking on 34 corridors for a total of 730 miles. Railbanking has become an effective tool for the preservation of railroad corridors. In the 10 years that it has been in place, it has led to the development of 45 trails totaling 1,238 miles in 20 States. We believe the communities should continue to have this option.

The Department strongly supports H.R. 1995, and we urge its early enactment. The bill has five important components. No. 1, it preserves the long-term productive agriculture in the region. No. 2, it furnishes essential watershed protection of Tomales and Bodega estuaries. No. 3, it maintains the land primarily in private ownership. No. 4, it creates a model public-private partnership, and, No. 5, it protects the significant public investment in the Point Reyes National Seashore.

The legislation proposes an innovative and cost-effective method to protect the 38,000 acres of coastal agricultural landscape. This protection would primarily be accomplished through acquisition of development rights and conservation easements, all from willing landowners. With conservation easements, land would remain in private ownership and would be protected from incompatible development, and would contribute to the local economy and the tax base. Preserving the undeveloped lands in the farmland protection area is integral to protecting park values and the long-term health of the Tomales and Bodega Bays.

The compatible pastoral setting of the eastern side of Tomales and Bodega Bays is unquestionably in jeopardy. Growth throughout Marin County is high. Open pastures and ranches are being sold and segmented for various types of development. Major land-use changes in the lands forming the eastern slope of Tomales Bay will directly and negatively impact public enjoyment of Point Reyes National Seashore.

A private, non-profit group, the Marin Agricultural Land Trust, MALT, has made significant headway in protecting the rural setting of these critical watershed lands. The 13-year-old group has already purchased conservation easements on 11,000 acres within this proposed 38,000-acre protection zone. Because of MALT's efforts, the acquisition of these easements by the Federal Government would not be needed.

Similarly, the Sonoma Land Trust has begun the purchase of several properties in the northern part of the protection area. These local efforts have already contributed close to $15 million to achieve the overall goals of the bill. H.R. 1995 would authorize a Federal partnership, a Federal contribution in order to complete the overall protection of the area.

H.R. 1995 has received bipartisan support and the endorsement of many groups, including the Marin County Board of Supervisors, the Sonoma County Board of Supervisors, the American Farmland

Trust, the Inverness Association, the West Marin Environmental Action Committee, and the West Marin Chamber of Commerce.

The National Park Service believes now is the time to support these innovative partnership efforts. If H.R. 1995 were enacted, funding for easement acquisition would be contingent upon Federal budgetary constraints and the administration's funding priorities.

This concludes my statement. I would be pleased to answer any questions you all might have.

[The prepared statement of Ms. Stevenson may be found at end of hearing.]

Mr. HANSEN. Thank you very much. Ellen Kitay, we'll turn the time to you for 5 minutes.

STATEMENT OF EVELYN KITAY, SENIOR TRIAL ATTORNEY, OFFICE OF THE GENERAL COUNSEL, SURFACE TRANSPORTATION BOARD

Ms. KITAY. Thank you, Mr. Chairman. I'm Evelyn Kitay of the General Counsel's Office at the Surface Transportation Board.

I've been involved in a number of judicial proceedings relating to the implementation of the existing Trails Act by the Board and its predecessor, the ICC. Accordingly, I'm here to testify regarding the role of the Board in implementing the existing Trails Act and to present views on H.R. 2438. With me at the table today is Joseph Dettmar, Deputy Director of the Office of Proceedings.

The existing Trails Act gives interested parties the opportunity to negotiate voluntary agreements to use, for recreational trails, railroad rights-of-way that otherwise would be abandoned. The Act is intended to preserve railroad rights-of-way for future use, which is called railbanking. Many railroads do not own the land on which their track lies. Rather, they have easements over the land of adjoining property owners.

Unless those easements are railbanked by converting them to a trail, they are extinguished, and the land reverts to the adjoining property owners when the Board authorizes the abandonment of the line and the abandonment authority is exercised. Some rights-of-way that were made into trails have been reactivated as active rail lines.

The Board has adopted specific procedures to implement the existing Trails Act. To begin the trail use process, a trail proponent must file a formal request in an actual abandonment docket. A trail-use request has no effect on the Board's decision as to whether to grant a railroad permission to abandon the line. It is considered only after the Board has decided to permit the abandonment.

The formal trail use request must include a statement of willingness to assume financial responsibility for the property, and the trail use proponent must explicitly agree to assume responsibility for paying taxes and for any liability.

When the Board has decided that an abandonment will be permitted on a particular line, and a trail use request has been received regarding that line, the railroad must notify the Board of whether it is willing to negotiate a trail use agreement. If the railroad declines to negotiate, the abandonment will proceed as if no trail use request was ever filed.

On the other hand, if the railroad agrees to negotiate and no offer of financial assistance to continue rail service on the line is received, the Board will impose a trail condition which gives the trail use proponent time to negotiate a trail use agreement with the railroad. Offers of financial assistance take priority over trails use requests, because they are offers to continue actual rail service on the line.

The Board has no involvement in the negotiations between the railroad and the trail use proponent. It does not analyze, approve, or set the terms of trail use agreements. If a trail use agreement is reached, the parties may implement it without further Board action. If no trail use agreement is reached, the trail condition expires and the line may be fully abandoned.

The Board is not authorized to regulate activities over the actual trail, and the Board has no authority to deny the trail use request if the statute has been properly invoked and the railroad has consented to negotiate. In short, the Board's jurisdiction is ministerial, and the Board cannot decide on whether or not railbanking or trail use is desirable.

H.R. 2438, if enacted, would dramatically alter the Board's ministerial role under the Trails Act. Under the current statute, the Board must impose a trail condition permitting interim trail use on a rail line approved for abandonment whenever the statutory criteria are met. The Board has no discretionary decisionmaking authority in this area and no substantive authority, other than to carry out the essentially automatic provisions of the statute. Furthermore, the Board is not authorized to regulate a trail and its use.

Under the proposed bill, however, the Board's ability to impose a trail condition would become discretionary; that is, the Board would be required to seek to determine if trail use is appropriate in a particular case. Requiring the Board to approve and oversee particular trails in this manner would be beyond the Board's primary mission, which is to oversee the economic regulation of railroads, motor carriers, pipelines, and non-contiguous domestic water trade. The Board has no particular expertise or knowledge concerning recreational trails. Congress only gave the agency a part to play in the formation of trails because of the railbanking element of the Trails Act.

Furthermore, the Board has limited resources. It currently has only around 130 employees to handle approximately 500 pending cases. The Board lacks the staff that would be required to approve and oversee individual trail use requests. In short, involving the Board in trail use approvals would be neither consistent with the agency's mandate, nor feasible given its existing resources and expertise.

H.R. 2438 also raises additional concerns. First, the bill could result in a delay of the exercise of a railroad's right to abandon lines that are no longer needed for current rail service until the Trails Act process under the legislation is completed. This would be counter to the mandate of the law that the Board now implements, which is to facilitate and expedite abandonments.

Second, the bill provides no legal standards by which the Board is to exercise the discretion the agency would be given with respect

to the granting of trail authority. This could create inconsistency in the granting of trail use authority and vulnerability with respect to likely judicial appeals.

Third, the bill raises the possibility of our having to do an environmental review under NEPA in every case in which a trail proposal is made. Such a requirement would impose additional burdens on the already strained resources of the Board.

Finally, the bill creates confusion within the provision eliminating Federal preemption by appearing to give the vesting of any reversionary property interests pursuant to State law priority over the creation of any trail and railbanking. This provision could render the exercise of the Board's discretion with regard to trail use fruitless in many cases, because there could be no trails under the proposed bill if there would be a reversion under State law.

In summary, the role that the Board plays under the Trails Act is not intended to promote a position on the issue of the conflict between reversionary property rights and trails. The Board's existing responsibilities with respect to trails are ministerial and do not and are not intended to resolve this conflict from a policy perspective.

However, the proposed bill appears to impose a burdensome regulatory responsibility on the Board to determine whether a trail should be created that could be rendered a nullity, in many cases, by the operation of State law giving effect to reversionary property rights. This exercise, which is not consistent with the Board's primary mission, would be time-consuming and a strain on its already limited resources, and could ultimately be a fruitless effort by the Board.

This concludes my oral remarks, and I would be happy to answer any questions that you might have.

[The prepared statement of Ms. Kitay may be found at end of hearing.]

Mr. HANSEN. Thank you.

Questions for our witnesses? I'll limit the members to 5 minutes; the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. Ms. Kitay—am I pronouncing the name correctly?

Ms. KITAY. Yes.

Mr. FALEOMAVAEGA. I think, basically, as a matter of our national policy, not so much in the area of the fact that at one time we've had 270,000 miles of railroad corridors all over the country, and now because of abandonments since 1990, it's only 141,000—and correct me as I'm going along on the history of our railway system. We're having a difficult time even getting Amtrak on the track, as far as getting proper appropriations and funding for the process.

My question is, isn't it the bottom line—because of the Congress seeing this as our national policy—that we have to preserve these easements so that at one time, or maybe sometime in the future, that if our railroad system would have a need for these easements to go back, if there's a need economically?

Ms. KITAY. Yes. In the Preseault case in the Supreme Court, the Supreme Court clearly found and approved the railbanking purpose of the statute, and if there is railbanking, then the line remains

within the national transportation system and remains available to be restored to rail service. So that is clearly a policy of the existing Trails Act.

Mr. FALEOMAVAEGA. Then the Congress turned around and made it very technical, saying it's still for public use because it's an easement and there's really not been an absolute—what do you call it—alienation—of the land that is used as an easement by these railroads. Am I correct? So instead of doing it, now we come out with this system of putting in trails, rather than giving back the lands to the original owners. Because it seems to me that this is the heart of Congressman Ryun's bill; they don't mind having trails, but they do want to be compensated after abandonment. This is what I sense, and correct me if I'm wrong on this.

Ms. KITAY. No; I think that's correct. I think under the existing statute we have no discretion. We have to stop the abandonment. The abandonment doesn't go forward if there is a proposal for trail use, assuming that the statutory criteria are met. And the Supreme Court, in the Preseault case, found that the landowner's right was to seek compensation, by filing an action in the Claims Court, and there have been several of those actions that have been filed and are pending.

This statute would change that because—or at least it can be read to change that, to suggest that—where there are easements and where the easements would be extinguished under State law, you'd never get to the trail in the first place.

Mr. FALEOMAVAEGA. And I'm sorry Mr. Ryun is not here, but I think there was an additional condition that if these landowners get their land back, they can then develop the land in some other form different from the trails system.

Ms. KITAY. Right. Well, once there is an abandonment and once the abandonment authority is exercised, then the land is no longer within the national transportation system and it can be developed for any use, and the right-of-way would have to be re-acquired to bring it back as a rail line, which is often a very costly undertaking.

Mr. FALEOMAVAEGA. Let's say there's a corridor 100 miles long, and the landowner gets it back—maybe 50 miles of that. Obviously, this is going to break the trail system, because the landowner may decide, "Well, I want to develop this 50 miles; it belongs to me as a landowner." What is this going to do to the railway system, as far as the original intent of the Congress? We're not going to have a rail system.

Ms. KITAY. Well, there have been a few railroad rights-of-way that have been restored.

Mr. FALEOMAVAEGA. OK, so in other words the railroads will just have to go around these landowners who say, "Well, 50 miles belongs to me." And they're every much entitled to it as a landowner.

Ms. KITAY. Well, I think it's——

Mr. FALEOMAVAEGA. My question is how the railway system is going to redevelop itself should the railway system say, "Well, we want to use the easements again because our railroad system in the country needs to be brought back to life again."

Ms. KITAY. Well, there are ways; eminent domain is available, and there are other ways in which a railroad can acquire land. It's

just more expensive and more cumbersome to do it that way than it would be under this kind of a statute.

Mr. FALEOMAVAEGA. Now don't get me wrong. I absolutely believe in the right of landowners to be duly compensated. But when the easements were taken, these landowners never received a cent from the Federal Government?

Ms. KITAY. I think it's not clear. They could have received money. We'd just have to go back to 1899 or what happened in 1910, and that's something that we don't know about. Presumably they paid less for their land than they would have if there hadn't been an easement or they got money from the railroad.

Mr. FALEOMAVAEGA. They were compensated for fair market value. I mean, isn't this a Federal policy in the first place, that in a taking for a public purpose that the landowner should be compensated?

Mr. DETTMAR. Well, Congressman, landowners——

Mr. HANSEN. State your name, please, for the record.

Mr. DETTMAR. I'm sorry; I'm Joseph Dettmar, the Deputy Director of the Office of Proceedings at the Surface Transportation Board.

Landowners have a claim under the Federal Tort Claims Act in the Court of Claims, but as I believe as has already been stated, none of those claims have been successfully prosecuted; so no landowners have received any money for any land.

Ms. KITAY. Well, it's under the Fifth Amendment. They can bring a takings claim, not a tort claim. It's a takings claim under the Fifth Amendment, and in one case a taking was found, and the amount of damages has not yet been set. That is the Preseault case that arose out of the Supreme Court case, and there are several cases that are now pending. One is pending in the Federal Circuit, and there are two or three pending in the Claims Court now.

Mr. FALEOMAVAEGA. Mr. Chairman, my time is up. Thank you.

Mr. HANSEN. Are the landowners included in the negotiations with the trail proponents and the railroad?

Ms. KITAY. Not directly. The way the statute was drafted and the way it's been implemented by the Board, landowners get notice of the proposed abandonment and the possibility that a particular right-of-way can be used as a trail, but the voluntariness and the beginning of a negotiation process is between the trail proponent and the railway.

Mr. HANSEN. What's the history of this, then? Have landowners become an integral part of it? If they're given a notice, like we get notices of water—things that somebody's doing—that's all they get?

Ms. KITAY. They get notice of proposed abandonments. They have participated in our abandonment proceedings before the Board; they have challenged several decisions where we imposed trail conditions in the courts, with varying degrees of success.

Mr. HANSEN. But they're only a party if they become an intervenor then; is that right?

Ms. KITAY. They can file comments and participate in our—yes; but that's correct; that's the way the statute was written.

Mr. HANSEN. So that's like John Q. Anybody. I mean, I could do that in Salt Lake City. I could intervene on an issue in Hutchinson, Kansas if I so desired. I mean, anybody can do that. So they're not

given any particular greater standing than anybody else; is that right?

Ms. KITAY. That's right. In our proceedings, that's right.

Mr. HANSEN. Oh, I see. The gentlelady from—the gentleman from Iowa——

Mr. RYUN. If you could yield for a minute.

My question is, have any interim use requests been considered or denied as a result of landowner appeal?

Ms. KITAY. No. Well, there are cases where we have found that the abandonment had been fully exercised prior to an imposition of a trail condition, and we have revoked trail authority on that ground. And we have also made it clear that if a landowner or anyone else comes in and shows that the statutory requirements of the Trails Act are not being met, that we will revoke trail conditions.

Mr. RYUN. Well, no, because the landowner owns the land, and that's what we're trying to establish here.

Ms. KITAY. Right. The land—I think the way that the statute was written and the way that the board has implemented the statute is that the landowner's real right is to go to court and bring a takings claim.

Mr. RYUN. May I make a point on that? That's what we were discussing earlier, that they can go to court, but the cost of going to court and coming back here exceeds the actual cost of the land. In many cases it would cost them a great deal of money. In fact, I gave a point earlier that it can cost as much as $100,000 for land, let's say, that's worth $30,000, in addition to the number of years that it's tied up in court. So it is extremely difficult for the landowner to be able to do this process.

Mr. HANSEN. That was on my time.

The gentlelady from Washington.

Mrs. LINDA SMITH. Thank you, Mr. Chairman.

I think my first question is for Ms. Stevenson—and I could be confused, but I don't think so, because I've gone through some of these. But you stated in your testimony that railbanking is entirely voluntary between railroads and local communities. And that railbanking requires consensus—is what you said—among local community leaders and their constituents.

I'm really not aware of the provisions of section 8(d) that prevent the conversion of railroads, or railways, into recreational trails, absent community or constituent consensus. So I guess, how does this statute require consensus from local communities, which is part of your testimony?

Ms. STEVENSON. I think actually that, when Ms. Kitay explained her testimony, hers probably was more clear than what we had written. It doesn't require total consensus from the committee; it requires an agreement between the railroad and the community group, or the rail proponent in order for a railbanking provision to go ahead.

Mrs. LINDA SMITH. OK. So it isn't necessarily consensus; it's just an agreement of the parties present?

Ms. STEVENSON. Consensus between the two parties——

Mrs. LINDA SMITH. Just the two parties.

Ms. STEVENSON. [continuing] not necessarily consensus of the entire community. That's correct.

Mrs. LINDA SMITH. OK. So the landowners themselves could be excluded from this consensus?

Ms. STEVENSON. That's correct.

Mrs. LINDA SMITH. Thank you.

I would reserve the balance on my time for the proponent of this particular bill.

Mr. HANSEN. Thank you.

The gentleman from Puerto Rico.

Mr. ROMERO-BARCELO. I have no questions, Mr. Chairman.

Mr. HANSEN. The gentleman from Kansas, do you have any questions?

The young lady from California. We'll recognize you for 5 minutes.

Ms. WOOLSEY. Thank you, Mr. Chairman.

Ms. Stevenson, would it be all right if Superintendent Don Neubacher sat with you?

Ms. STEVENSON. It would be a pleasure.

Ms. WOOLSEY. Thank you very much.

My question really is directed to him, because it's about the history of the Point Reyes National Seashore as it was originally proposed.

Mr. Neubacher, it's my understanding that—and you weren't there then; you're way younger than I am, but you know the history better than I. It's my understanding that there was a lot of opposition when the initial Point Reyes National Seashore was proposed. This opposition was based on the fears of the bill's consequences and of intrusion of Federal Government in a way of life.

I'd like to know, do we still face those worries with the local ranches within that area?

Mr. NEUBACHER. Unequivocally no. Actually, we have a very positive relationship with the ranchers with inside the National Seashore at this point in time. We still have 18 ranchers operating, and we get along extremely well. In fact, there was—part of the original legislation that prohibited from purchasing any of those ranch complexes; is later the ranchers came to Congress, and ask for authority to work a little bit more closely with us, and gave us the authority to buy interest in those lands to.

To this day we still have about 20,000 plus acres of active ranching going on in Point Reyes National Seashore, and again, it's extremely compatible, and as your proposing this bill, we endorse the idea of extending that to the East Side of Tomales Bay because of the positive relationship.

Ms. WOOLSEY. Well, would you take a step across the bay now to the farmland protection area, and talk about how that would enhance our Federal investment in the national park.

Mr. NEUBACHER. The Tomales Bay estuary system—which is really one of the largest on the west coast—is extremely productive. There's like 50,000 shore birds. We have Coho salmon, we have steelhead. Ten percent of the Coho population left in California—goes up Waganeigus Creek, which comes out of Tomales Bay.

We have found over time that again this relationship with the pastoral setting is very compatible with the park setting. What we don't want—there is numerous studies that urbanization actually adds more deterioration to the environment. So we'd like to work

with the local community. And this was really initiated by the local community to ensure that the pastoral setting continues, because again, we have a very clean estuary; we have a good system; it's working, and want to ensure that it continues into perpetuity.

Ms. WOOLSEY. OK, thank you very much. Thank you, Mr. Chairman.

Mr. HANSEN. Superintendent, how many acres have you purchased since establishment of the park?

Mr. NEUBACHER. Pardon me?

Mr. HANSEN. How many acres have been purchased since the park was established?

Mr. NEUBACHER. The total authorization for Point Reyes is 71,000, and we've purchased about 65,000. The rest is primarily—other agencies own it. For example, the Coastguard. And there were some agreements with AT&T that we wouldn't purchase that land. Actually, the outstanding land that we haven't purchased, the very small parcels; we're probably going to do those—actually, our land protection plan calls for less than fee acquisition. Total outstanding is 200 to 300 acres.

Mr. HANSEN. How much would that be agricultural ground?

Mr. NEUBACHER. Left?

Mr. HANSEN. Yes.

Mr. NEUBACHER. None.

Mr. HANSEN. None? How much agricultural ground has been purchased?

Mr. NEUBACHER. Actually, I'd have to submit that for the record. The original pastoral zone created by the legislation was 26,000. And we did purchase more of that, and I could look that up, but I don't know the total acres initially.

Mr. HANSEN. At one time was this all agricultural land?

Mr. NEUBACHER. A lot of the park was agricultural land. It is heavily wooded in the southern section of the park. In the initial concept for the park, when it was supported by the Board of Supervisors, they divided the park up into a public use area, and a pastoral zone. And we have really kept to that original agreement. And again, we've worked the ranching community. And one thing we're going to enter today is testimony from the ranchers that are in the park now, saying that we've treated fair, that we have a good relationship, and that they work well with us.

Mr. HANSEN. How much money does this cost the taxpayers?

Mr. NEUBACHER. The authorized ceiling for Point Reyes National Seashore is approximately $62 million——

Mr. HANSEN. So you still have some——

Mr. NEUBACHER. [continuing] the majority of that, $62.5 million.

Mr. HANSEN. So how much more do you feel you need to accomplish what would be in Mrs. Woolsey's bill?

Mr. NEUBACHER. With Woolsey's bill, actually the appraisal—the authorized ceiling in Woolsey's bill is $30 million. The appraisal that the Park Service did—and this was a very rough appraisal—that we could purchase everything, which means the conservation easements and the 38,000 acres—about 2,000 of that is state lands—with about $40 million. And again, there's already been a commitment of 11,000 acres, which is worth about $15 million. So the rest of the money would come from the match.

And again, this is a partnership. We were approached by the local community—the partnership between the state, the local community, and the Federal Government. So what we're trying to do is do the Federal commitment, because we have such a significant resource here, next to Tomales Bay and in Point Reyes National Seashore.

Somebody mentioned earlier, the public truly is being served. We have 2.5 million visitors coming to this area, and we contribute about $107 million to the economy.

Mr. HANSEN. Well, what is the significance you point out? I mean, if we talk Yellowstone, we can all figure out what that is, the Grand Canyon. For those of us who haven't the opportunity to visit this park, give us a quick summation of the great significance on it.

Ms. STEVENSON. Well, if the gentleman will yield. You have to remember you've been invited out there many times.

Mr. NEUBACHER. And we would love to have you come out.

Mr. HANSEN. That's true. We're invited everywhere around the world, and it's just hard to prioritize it all.

Mr. NEUBACHER. The park's significance, really—when national seashores were established we were trying to protect scenic coastline, and within the park we have a lot of maritime history. We have 147 miles of hiking trails. We have wildlife that abounds. I mean, we serve a lot of visitors, so the recreational and scenic opportunities are phenomenal. And we also have the oldest shipwreck on the west coast. We have the St. Augustine. You may have read about it recently; we're trying to uncover it. It's where the first European contact occurred in California; Sir Francis Drake landed there in the 1500's. The significance overall for the resources, cultural and natural, are phenomenal, and of national significance.

Mr. HANSEN. I'm not asking you to be a land appraiser, but the original Act—what, it was $14 million. And yet you folks have spent $65 million. How do you feel $30 million will handle it all?

The rule of thumb around here is it takes longer and cost more on everything we do.

Mr. NEUBACHER. We can submit this for the record, but we've actually gone through—the conservation easements have been purchased by the Marin Agricultural Land Trust. So we have a lot of history, and actually the prices to a certain extent have stabilized. We actually did an estimate for a conservation easement, we feel very certain—and again, this was done by qualified appraisers. I personally believe that we'll do the job.

Mr. HANSEN. The gentlelady from Washington, did you want to reclaim any time?

Mrs. LINDA SMITH. I just had one question of Ms. Kitay. Am I saying that right?

Ms. KITAY. K-i-t-a-y.

Mrs. LINDA SMITH. Kitay. You made a comment, that I just wasn't sure if I understood it fully. You were concerned about NEPA review being required because of this particular bill. I guess I wanted to know why trails shouldn't be—or should be exempt from NEPA review, or did I not understand what you were saying?

Ms. KITAY. Well, we had a court case involving NEPA, and whether we had to do a environmental analysis of every trail, and

the 8th Circuit in a case called Goos v. ICC, found that because our role under the Trails Act is ministerial, there's no discretionary decisionmaking involved, and therefore NEPA is not triggered every time you have a trail proposal. And our concern here is that, if this bill were enacted, and the Board were given discretion regarding trail authority, that then you would have trails considered, or the licensing or approval of trails considered, to be major Federal actions requiring an environmental review under NEPA.

Mrs. LINDA SMITH. So the jury's out on whether or not I would support that or not. I think there should be a lot of review before there's a trail. But you would say that would get in the way of producing that trail, making it more difficult.

Ms. KITAY. I think the concern that the Board has is that that would impose additional burdens on our already strained resources, because we have so little staff, and so many pending cases; and that that would just create more cases that we had to do environmental assessments on or whatever.

Mrs. LINDA SMITH. So you think trails should be exempt of most environmental assessments?

Ms. KITAY. Well, I think that—as I said, because under the current statute we don't exercise discretion——

Mrs. LINDA SMITH. You don't have to now; you would have to then.

Ms. KITAY. We would have to under this bill.

Mrs. LINDA SMITH. Thank you.

Mr. HANSEN. The gentleman from Maryland, any questions?

Mr. GILCHREST. Not at this moment that would probably make any sense, Mr. Chairman, because I'm late for the hearing, but I hope everything's going all right so far. I'll have some questions maybe for the next panel. Thank you.

Mr. HANSEN. The gentleman from American Samoa.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

I just wanted to ask the superintendent and then Ms. Stevenson for their comments further on H.R. 1995. I guess there's a saying that haste makes waste. And I just wanted to ask you, is there any conceivable issue that was not considered, in terms of the process that you've undertaken to review all the issues that were involved, where we've come now with Ms. Woolsey's proposed legislation?

I mean, how long has this taken place as far as the consultations, and meetings? I mean, this wasn't done in a process of 3 months or 6 months, or——

Mr. NEUBACHER. No, we're talking years. And I've been—Actually I worked at Point Reyes National Seashore, I worked on another project; no I'm back. And I've been the superintendent there for approximately the last 3 years. And this started way before I got there, so we're talking 3 years plus. There's been a lot of discussions and consultations. And I have to admire Ms. Woolsey for actually all the work she's done working with the community. She's done a lot of public meetings.

Mr. FALEOMAVAEGA. OK. So this is not a Democratic or Republican bill; this is a bill that's going to benefit the community there in Point Reyes.

Mr. NEUBACHER. Very much so, and there's tremendous broad-based support from the community organizations.

Mr. FALEOMAVAEGA. I yield to the gentlelady from——

Ms. WOOLSEY. Thank you. I would like to ask, if the Chairman's not going to ask a question about clarifying the section of the bill you questioned earlier, if I should ask them. Or are you going to ask them?

Mr. FALEOMAVAEGA. I will ask them myself.

Ms. WOOLSEY. Thank you.

Mr. FALEOMAVAEGA. Could you clarify that provision that was raised by the Chairman?

Mr. NEUBACHER. Yes. The intent of that section is clearly what Mr. Hansen stated, was that we could exchange lands outside the state. So under the current Policy Act we cannot do that; it would only be with inside the states. So that's why we worked with the Congresswoman to instate that. I mean, that's—in our opinion, would not make or break this bill. So if there's concern we wouldn't oppose a change.

Mr. FALEOMAVAEGA. So in other words, Secretary Babbitt can exchange Escalante Monument in Utah with——

Mr. NEUBACHER. I'm afraid so, I guess I'd have to say.

Mr. FALEOMAVAEGA. Go ahead, Mr. Chairman.

Mr. HANSEN. Why is that necessary to have that in the bill?

Mr. NEUBACHER. Well, we were trying—there have been other cases where I've worked with the Park Service, that we have found lands in other states that we could not exchange that were really good—the agricultural community would like to have had, but we just couldn't do it, and we had to go back to Congress for authority. So we thought we'd avoid that so we could exchange lands in another location if possible. It just gives us broader authority to do the job.

Mr. HANSEN. But in effect your amending FLPMA for this one particular area.

Mr. NEUBACHER. That's correct.

Mr. HANSEN. That's dangerous, too. I wouldn't count to heavily on that——

Mr. FALEOMAVAEGA. I think I'm still on my time, Mr. Chairman.

Now this is not the only exception of this proposed legislation, Ms. Stevenson. I mean, are there other instances where the secretary is authorized to do exchange of lands, or the department for that matter?

Ms. STEVENSON. I'm sorry, Mr. Faleomavaega, I don't know the answer to that; we'll have to provide it for the record.

Mr. FALEOMAVAEGA. Would you provide that for the record, because I think—I do share the Chairman's concern if we're setting a precedent.

Thank you, Mr. Chairman.

Mr. HANSEN. Thank you.

We appreciate Evelyn Kitay and Kate Stevenson for being with us, and appreciate your testimony. We'll excuse you at this point. And Panel No. 3 is Nels J. Ackerson, The Ackerson Group; Richard Welsh, Executive Director of National Association of Reversionary Property Owners; Jayne Glosemeyer; and Howard Woodbury.

We appreciate the third panel being with us at this time. You know the rules. We're 2 hours and 15 minutes into this hearing. It's going a little slower than we'd plan.

Mr. Ackerson, we'll start with you, and just go across.

We'll give you each 5 minutes. Is that all right?

Mr. ACKERSON. That's fine, Mr. Chairman. Thank you.

Mr. HANSEN. Thank you. The floor is yours, as we say in our business.

Mr. ACKERSON. Thank you, Mr. Chairman.

Mr. Chairman, I have submitted for the record a 7-page single-spaced statement of testimony, of which I will not have time to read.

Mr. HANSEN. Without objection, that will be included. And all of your testimonies in their completeness will be included in the record, and you would like to abbreviate your testimony, by all means, please do it.

Mr. ACKERSON. Thank you, I will do so.

STATEMENT OF NELS ACKERSON, ATTORNEY, THE ACKERSON GROUP

Mr. ACKERSON. Mr. Chairman and members of the Committee, I have the privilege of representing, individually and in class actions, now tens of thousands of landowners, homeowners, families, retirees, small businesses, farm organizations, and others, in about 15 states across the nation. Like the author of H.R. 2438, Mr. Ryun, many of my clients enjoy the outdoors and know the benefits of recreational trails. They also in many cases are conservationists.

What distinguishes my clients from others is that they own the land on which railroads once operated their trains, and upon which trails are now operating or proposed. They are not adjacent landowners; they are *the* landowners. They own the strips of land running through their farms or their yards, where trains once ran, every bit as much as any homeowner owns a backyard, a driveway, or a deck.

And so, members of the Committee, I want to ask this Committee to look at two different perspectives on the railroad corridors where trails have been proposed or are operating; not just the perspective down the corridor, but the perspective across the corridor.

The owner's perspective is different, because it is their land. They not only look down the abandoned railroad, but also across it. Looking cross the right-of-way they see the rest of their farm, reunited for a more efficient farming operation, now that the railroad has brought to an end the agreement that allowed railroad use on their land.

They see a backyard in which their children can play in safety and privacy. Sometimes they see a strip of land that has become a sanctuary for wildflowers, berry bushes, and wildlife which they would like preserved, free from asphalt surfaces and free from traffic.

In short, what my clients, the landowners, see, is *their* home, *their* farm, *their* land. Unfortunately, the perspective that has dominated much of the debate, and not a bad perspective, but a different perspective—and it's only bad if it's the only perspective—and that is the perspective down the corridor.

Railroad companies and trails advocates often fail to look at the other perspective, across the corridor. Railroads want to be paid for land they once used, regardless of whether they own it. Trails pro-

ponents see opportunities for recreational uses, and often view my clients as greedy or disgruntled neighbors, who are troublesome in their bothering to stop part of a trail; rather than as the owners of the trail that is to be taken without their consent and without their consultation for the purpose that they did not have in mind.

Now those who look down the corridor, and only down the corridor, not only miss a beautiful view of life; they also miss the fundamental point that we learned in kindergarten: you shouldn't take something that is not yours without first asking. That's the first principle. The other is, you should pay for what you take. The perspective down the corridor—when it is the exclusive perspective—turns a blind eye to those who own the land. A trail proponent in zeal to establish a recreational trail may presume that the railroad, rather than the real landowner, should be approached and paid for the land. The railroad of course likely will be happy to oblige. It's a rule of human nature I think—even in this city—that if you rob Peter to pay Paul, you can often count on Paul for support.

Thus the real landowners are taken out of any involvement whatsoever in what happens to their land. That is the perspective that has been fostered and maintained by the present law. Owners of the land to be taken for a trail don't even know about these abandonments in many many cases. Some of my clients who own farms or little homes along abandoned railroad corridors don't read the Federal Register every day. They don't get a second notice. Some of them have no idea what's happened until it's done. That is why the issues that are addressed in this bill must be addressed seriously.

H.R. 2438 provides a way to restore balance among the various pubic and private interests that are affected by the National Trail System Act. Public policy should recognize and protect the legitimate interests of persons whose land is taken for a new public purpose, and whose lives and the lives of their families will be changed forever as a result.

Those persons who are the most affected should at the very least, have a significant role in the process, be given protection against the loss of security and privacy, and have access to traditional land law to enforce their property rights. The conservation, recreation, and even national security objectives of the National Trail System Act—and incidentally, I would like to address those national security issues if the time will permit—those objectives can be accomplished without sacrificing what has been the very fabric of society embedded in the Constitution.

We don't need to sacrifice constitutional safeguards. We don't need to eliminate the roles of state and local government. And we don't need to violate the simple principle, that we should never take what is ours without first asking, and we should pay for what we take.

I believe my time is up, unfortunately. I have addressed in my written statement a number of misconceptions about the law and about the facts, which I would be happy to address if anyone has questions.

[The prepared statement of Mr. Ackerson may be found at end of hearing.]

Mr. HANSEN. Thank you very much. Mr. Welsh.

STATEMENT OF RICHARD WELSH, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF REVERSIONARY PROPERTY OWNERS

Mr. WELSH. Thank you, Mr. Chairman and Members of the Subcommittee.

Mr. HANSEN. Would you move the mike over in front, if you would, please.

Mr. WELSH. Oh.

Mr. HANSEN. Yes, right there. Thank you.

Mr. WELSH. Usually with my hearing problem I talked loud enough for everybody to hear within a mile.

Mr. Chairman and Members of the Subcommittee, I'm Richard Welsh, the Executive Director of National Association of Reversionary Property Owners, the non-profit organization dedicated to the preservation of reversionary property rights for the tens of thousands of property owners throughout the country.

NARPO currently is working with aggrieved property owners in 47 states. To date there is over 60,000 property owners throughout the country affected by this rails-to-trails law. Regardless of the intentions of the supporters of the rails-to-trails movement, rails-to-trails as passed by Congress and implemented by Federal agencies, and private entities I might add, has become a terrible detriment to the individual and constitutional property rights of members of our United States. H.R. 2438 will go a long way to right a major flaw in the rails-to-trails law.

When Congress passed the original rails-to-trails law in 1983, the new railbanking policy preempted state property laws. Specifically, Congressman Ryun's bill will eliminate this preemption. This will not be the death of the rails-to-trails movement, as the trails owners insist. Instead Rails-to-Trails project sponsors can acquire land like any other entity, seeking specified land for public use. Government and private groups can pay for the land needed from the property owners to develop the trails. The rails-to-trails law has programmed over 3,600 miles, across 62,000 pieces of private property, without paying one cent of compensation for the loss of rights; rights which the U.S. Supreme Court set seven and a half years ago for due compensation. Jayne Glosemeyer sitting on my left here will testify to that effect now.

Because the Rails-to-Trails Act preempt state property law of reversion, certain other state and Federal laws lose their application. A glaring case of laws being abrogated due to the Rails-to-Trails Act occurred near Park City, Utah in 1989, and still exists today. When Union Pacific Railroad abandoned their line in Echo, Utah to Park City, abutting owners expressed concerned about the nearby tailing piles from the old Silver King mine. The tailing piles lie directly on the right-of-way and imposed an environmental risk at that time, and even today still do.

The BLM hazardous material unit ordered an environmental survey to be conducted on the right-of-way, which was proposed for the trail. The survey reported that voluminous amounts of arsenic, mercury, lead, were present, and leeching into the soil and going into the air. The report warned that children would be susceptible to airborne carcinogens emanating from the tailing piles. Because of the exemption from state and Federal environmental laws

through this Trails Act—excuse me. Because of the exemption from state and Federal environmental review of trails, nothing was done, and the trail was built within 20 feet of the exposed tailing piles. If Park City would have had to abide by the state reversionary laws, more oversight of the project would have occurred, and polluted land most assuredly would have been cleaned up.

One of the worst aspects of the Rails-to-Trails Act is that private entities can designate and develop trails without ever being subject to the electorate. In a case near Lewiston, Idaho, a rail salvage company acquired an interest in a long-abandoned railroad. When the property owners heard that a trail might be built on the rail bed they tried to find out who owned the property and who had control over it. NARPO was finally able to determine that the railroad was abandoned in 1985, and already the land had reverted to the abutting property owners. But during this confusion the trails group sold quit claim deeds to the non-suspecting property owners that already owned the land.

One way property owners can fight to regain the use of their land, is to convince local elected officials to oppose rails-to-trails projects. It is difficult to succeed however, when an advantage is provided to the trails group over landowners, through the Federal law. In almost every instance property owners do not know about a forthcoming project until the trail is being built through their property. The Rails-to-Trails Conservancy, who is going to testify later, supports this non-notification of property owners. Into the record as part of my testimony today is the letter from the RTC office in Washington, DC, here to an Emmet, Idaho official, where the RTC advocates keeping the property owners in the dark until the funding and authorization for the trail is approved. The sad part is, RTC receives Federal program money to be used to collude against property owners.

Interim Trail Use designation and the arbitrary control by a trails groups has had detrimental affect to property rights. After being designated an Interim Trail User under the Rails-to-Trails Act, an entity can take complete control of the right-of-way, even though it might be 400 feet wide. The negotiations between the trail use entity and the abandoning railroad can go on for years. The Service Transportation Board exerts no oversight before or after issuing the trail use agreement. Meanwhile, the abutting owners do not know who's controlling it and who to address their complaints to.

H.R. 2438 will prevent the preemption of state property law. Groups interested in making trails would have to abide by state reversionary property law. Abiding by the state law would solve all the above-mentioned problems before they occur. It a state or local government want to develop a trail they could condemn the right-of-way and pay the property owner. This is the way our law is supposed to work.

Rails-to-Trails was written to effectively extinguish reversionary rights. The U.S. Supreme Court has said these rights can be taken. The court said the Constitution requires compensation. To date nobody has been paid. The property owner, Mr. Preseault from Vermont, has been waiting, and really since 1980, when his property was originally taken, and is now a trail.

I want to thank the committee, and I'd be glad to answer any questions.

[The prepared statement of Mr. Welsh may be found at end of hearing.]

Mr. HANSEN. Thank you, Mr. Welsh.

Jayne Glosemeyer.

STATEMENT OF JANE GLOSEMEYER, LANDOWNER

Ms. GLOSEMEYER. Thank you, Mr. Chairman.

I am Jayne Glosemeyer, a landowner from Marthasville, Missouri. I came here today to tell you that the Rails-to-Trails Act may produce trails, but in the process it destroys things much more precious; the safety and security one has in their property, and a future hope of passing down one's heritage to their children. My husband and I learned of this government policy that prevents us from using our own land, by reading the Sports section of the "St. Louis Post Dispatch." Landowner notification is not a provision of the Rails-to-Trails Act.

We own and operate a farm that has been in our family for over 100 years. My great uncle, granted and recorded an easement in 1889 to the Cleveland, St. Louis, and Kansas City Railroad Company—of which I hold a copy—allowing 12 acres to be used for the purpose of a right-of-way for a railroad, and for no other purpose. Today, instead of a railroad, which my family agreed to, I now have a state park running through the middle of my farm.

A landowner group, made up of community members, formed with me and spent over $150,000 to fight for our property in state court, Federal court, U.S. Supreme Court, and now the U.S. Court of Claims. Over ten and a half years of my life has been spent in some form of litigation over land that I own, and I have a deed to it. This confiscation of private land for public use has left me feeling like a second class citizen. Neither the Missouri Constitution, nor Missouri state statutes have protected me.

The Rails-to-Trails Act is a scam, contrived by special interest trails groups to void state railway abandonment law in order to use my land for their purposes. Trail proponents state in a September 1988 issue of The Bay State Trail Riders Association, that railbanking is a myth, and a way to get old railroads without having to pay for them. Railroad companies welcome the effects of this law, because they receive money for land they do not own, nor have the right to sell. According to the Rails-to-Trails Act my legal contract with the railroad company is a useless sheet of paper, and I do not understand why Congress would pass a law that negates legal contracts and renders state property law useless.

As a result of the Rails-to-Trails Act, I have found that I have not only lost my property rights, but I am also forced to carry an undue financial burden to provide recreational space for the general public. The Katy Trail sits 30 yards outside my front door, and 2 feet from our livestock's pens and sheds. In addition to the privacy I've lost because of the trail, I am forced to rent housing facilities for my livestock, 2 miles from our farm. The potential for liability and disease from human contact with our livestock has caused us to move our animals and prevented us from expanding our livestock operation. Just imagine, owning plenty of land to op-

erate and expand our farm—our hog farm—only to have government, a government program force us to rent land because the program has made our land unfit.

Now that a recreational trail exists in the railroad's place, we face significant exposure to liability arising from the uncontrolled trespass of the public, or generally ignorant of the dangers of interfering with the breeding habits of animals. Our once peaceful farm was at risk of being sued should a trail user be injured by an animal.

One afternoon I returned home to find a woman off her bicycle, sitting in the shade of our shed, while her child chased one of my piglets around the field. I shudder to think what would have happened to that child if the piglet had squealed and the 600 pound sow came to the rescue of her baby.

Representative Jim Ryun's bill, the Railway Abandonment Clarification Act, will honor state property law, and prevent the Federal preemption of state law, concerning how railway abandonments are treated. Since it will remove the Federal mandate regarding the treatment of abandonment railways and designation of recreational trails, I will be free to deal with the State of Missouri. As you may know, due to the lobbying efforts of the landowners along the abandoned Katy Rail line, the State of Missouri struggled with the issue of whether to proceed with the Katy Trail, and with that I do not object. I do object however, when the Federal Government grants to special interest groups and railroads, both non-public entities, the power and the authority to claim my land as their own to do what they wish.

The Railway Abandonment Clarification Act removes the Federal bias that converts abandoned railways into trails over the rights of property owners. Since it is my land, I want control over how it is used. Anyone, including the State of Missouri, should consult me first to ask permission to use my land. I support Jim Ryun's bill, and encourage its immediate consideration by the Committee, and I thank you for this opportunity to be here. And I'd be happy to answer questions later.

[The prepared statement of Ms. Glosemeyer may be found at end of hearing.]

Mr. HANSEN. Thank you.

Mr. Woodbury.

STATEMENT OF HOWARD WOODBURY, LANDOWNER

Mr. WOODBURY. Thank you, Mr. Chairman. I appreciate the opportunity to appear before the Subcommittee on this issue that directly affects my farm and family. Representative Ryun's bill, H.R. 2438, the Railway Abandonment Clarification Act, is a sensible solution to the problem created when bikers, hikers, and horseback riders want to put a trail on my land where there used to be railroad tracks.

My name is Howard Woodbury, and my brother, father and I operate a diversified farm of 4,000 acres in Eastern Kansas. On my farm we raise wheat, corn, grain sorghum, soybeans, and cattle. My grandfather bought this farm more than 50 years ago when the Missouri Pacific Railroad operated the rail line that runs through my land. Originally, the railroad was build in 1886 and served

Forbes Field in Topeka when it was an air force base. After Forbes Field became an Air National guard base the rail line was used to service some farm cooperatives in Northern Osage County, but no longer continued north into Topeka. The particular line that cuts across my property is a 15-mile spur from Lomax to Overbrook, off of the Union Pacific line out of Kansas City.

When my grandfather bought our farm he understood that there were existing easements for railroad purposes on the land. My grandfather understood, and it has been long understood in Kansas, that railroads hold no interest in the land except as an easement. The Rails-to-Trails Act, however, has put in jeopardy the owner's property rights to his land which holds an easement. Kansas Law 66–525 states, any conveyance by any railroad company of any actual or purported right, title, or interest in property, acquired in strips for right-of-way to any party other than the owner of the servient estate, shall be null and void, unless such conveyance is made with a manifestation of intent that the railroad company's successor shall maintain the railroad operations on such right-of-way, and railroad owns marketable title for such purpose. What that means is, that unless the railroad sells the right-of-way to another railroad, the easement expires, and I regain the use of my land. In fact, my property held another railway that was abandoned some time in the 1920's. Consistent with Kansas state law, the use of that land reverted back to my farm, and today I use that land to grow hay to feed my cattle and other livestock.

Some time in 1984 or 1985 a flood caused the washout of the Missouri Pacific railway north of my farm, between Overbrook and Michigan Valley. Because the line was not heavily used and probably did not generate too much business for the railroad, the washout was not repaired, and rail service was discontinued on the line. The Overbrook co-op sued the Missouri Pacific to repair the washout, and reinstate rail service for their grain elevators. The Union Pacific railroad bought the railway shortly after the rail service returned on the line. This was particularly memorable because since the washout repair the railway was not as sturdy as before, and trains would travel up and down the line at approximately 8 to 10 miles an hour, blowing their whistles as they went.

In 1993, rail service was permanently discontinued, and the tracks and ties were removed in 1996. Around this same time rumors began that the railway was to be converted into a trail for horseback riders and recreational users. Neighboring farms like mine, which would be affected by this conversion were concerned. We had seen and were aware that another abandoned railway south of Topeka was dedicated to one of these recreational trails and never amounted to much. The right-of-way is not developed, not maintained, and seems like a big waste of money, property, and other resources.

My family and I do not want our land to be turned into an eyesore since, according to state law, I should be able to use the land to graze my cattle. Some landowners from surrounding towns met together, but we were told if we wanted to use our property it would be a long, drawn-out and expensive legal fight. In addition, the trail manager, who's the director of the Kansas Horsemen Foundation, and the former director of the Kansas Wildlife and

Parks, told us that they owned the land. He further stated that anyone fencing off the corridor or attempting to use the land could be arrested. Also the trail manager said that the trail was opened for public use, even though it had not been developed, and he would not be responsible to keep out trespassers. Our fears about our land are becoming quickly realized. It is not maintained, it has not been developed, and trespassers are a constant problem. Because the right-of-way has become a kind of no man's land, heavy rains have shifted rock and soil, and damaged some of the fencing. I took it upon myself to repair the fencing to keep my cattle safe, but have yet to be reimbursed by the trail manager. I would like to use my land, keep it maintained, and determine its use for myself.

What really gets under my skin is the fact that by all rights this land is mine, and I should be able to do with it what I want.

Representative Ryun's bill makes it clear that the Federal Government does not preempt state law, with respect to the establishment of an the easement, or right-of-way, or property interest. The people of Kansas have the good sense to develop laws and regulations under which everyone can operate. And if we have a problem, I can get to the courthouse or the state house, without having to travel all the way to Washington, DC to address my grievances. Thank you.

[The prepared statement of Mr. Woodbury may be found at end of hearing.]

Mr. HANSEN. Thank you, sir.

We'll now turn to the members of the Committee for questions for this panel.

The gentleman from American Samoa is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

Mr. Ackerson, I think you're the legal scholar here among the panelists, and I'd like to ask just one or two questions if I may.

I take the position that you suggested to the members of the Subcommittee that we ought to put ourselves in the position of the landowner, so let me ask you this.

Were the landowners compensated at the time of the taking, of the easements, historically?

Mr. ACKERSON. In some cases—if you're speaking of easements alone—in some cases the landowners were compensated for what was taken, and that was only the right to cross the land. They were not compensated for the ownership of the land. In other instances, according to the records, there was no compensation at all. In many of the cases which we have involving railroads, the railroads cannot prove that they ever paid anything for the land, but in some cases, no doubt, they did. And let me say, in some cases there's also no doubt that the railroads actually bought the fee simple interest in the land. That's not what we're talking about today.

But the answer to your question then, were the landowners compensated for their land? No, they were not. They were compensated if an easement was given; they were compensated for a right to cross the land with the railroad. And at the risk of saying too much here, let me just say, there was a lot of reason for that. When most

of these railroads were built the communities welcomed them because they would carry their crops, and unite their communities.

Mr. FALEOMAVAEGA. It's an economic benefit, obviously.

Mr. ACKERSON. That's right. And so the railroad provided the benefit, completely different from what now might be used as an recreational benefit to someone else.

Mr. FALEOMAVAEGA. I'm trying to gather again what you just stated earlier. There was compensation but in different circumstances.

Mr. ACKERSON. Well, there's compensation for what was taken, but there was not compensation——

Mr. FALEOMAVAEGA. It was a mixed bag.

Mr. ACKERSON. [continuing] there was not compensation for a use after the railroad was abandoned. There was never compensation for that.

Mr. FALEOMAVAEGA. In the most instances where these lands were involved if a railroad wants to build a rail system through my land would I have to get permission from the state government to contract with the railroad?

Mr. ACKERSON. Most typically in the last century when railroads were chartered they were given limited powers of eminent domain. And that is, they could either bargain with the landowners, or they could cause eminent domain to be exercised, and they could take the land. But they could only take it after paying for it, and after having a determination that it was, (a) a legitimate public use; and (b) that a fair price was being paid.

Mr. FALEOMAVAEGA. So your whole point of argument here, is that if it was taken for a public purpose, and then after the railroad has no longer the need for the use as a public purpose, the land should revert back to the landowners. That's the basis of your argument.

Mr. ACKERSON. Not only that, but for a specific public purpose—and the specific public purpose was to operate a railroad. There are other public purposes to operate power lines, to operate telecommunications lines, to operate—to have sewers, to have public roads. These particular easements were for one purpose only, and that was to operate a railroad. That's what they bought or that's what they condemned in most of the instances we're talking about.

Mr. FALEOMAVAEGA. Could you also share with the Committee. I hear 100 feet, 200 feet, 15 feet; what exactly is the lateral distance involved here. I notice the tracks. It's only about 15 feet from that home there.

Mr. ACKERSON. This particular home happens to be in Leelanau County, Michigan, and you're right, that is a proposed trail. It's being developed as a trail right now, and it's about 15 feet from the family's kitchen. There's another home right down from the line from that, where it's 15 feet from the bedroom and the kitchen, and the wife and the family was shocked to look out her kitchen window one morning to see a man on a horse right outside looking in upon her. That's the kind of invasion of privacy that some of these people——

Mr. FALEOMAVAEGA. So in the process of taking, there are inconsistencies, even on the property involved here—some involved 100 feet, some 200 feet, some 10 feet from——

Mr. ACKERSON. Typically through the plains and in the west they're wider than in the east. They range from 20 feet at the very minimum to more than 100, sometimes 200 feet.

Mr. FALEOMAVAEGA. So your suggestion is that, rather than the railroads dealing with the landowners, the trail proponent should deal with the landowners, if they want trails built on their land.

Mrs. LINDA SMITH. Mr. Chair?

Mr. ACKERSON. Whoever wants to use the land——

Mrs. LINDA SMITH. Could the gentleman yield?

Mr. FALEOMAVAEGA. I'd be glad to yield.

Mr. ACKERSON. If I may just——

Mrs. LINDA SMITH. Please go ahead.

Mr. ACKERSON. [continuing] just say, whoever wants to use the land, should deal with the person who owns the land. I guess that's the principle.

Mrs. LINDA SMITH. Would the gentleman yield?

Mr. FALEOMAVAEGA. I'd gladly yield.

Mrs. LINDA SMITH. I think what you're arguing for is local control who could deal with this a lot better than we can here. And I think the argument of the proponents is that, we shouldn't violate local land use or state land use. And they could probably better deal with this than we could deal here.

Mr. FALEOMAVAEGA. But I think one of the problems that I'm faced with—and this goes right down to the bottom line of our total mass transit system. As a matter of policy, where the railroad system or the industry comes into play, if they're going to be doing abandonments simply because—the railway is in trouble. I don't know if I'm right it this.

At one time we had 290,000 miles of railway. It was the most active form of transportation. America now would rather ride in their cars than take the train. And this is the reason why we don't have 125-mile bullet trains in our country, because simply we're not into the mass transit system as are most other developed countries.

My question is, it goes right to the fundamental issue that Congress has to make that decision, as an overall Federal policy, are we going to continue having a railway system in place, whether or not by abandonment now, or in the coming 25 years or 30 years? Are we still going to be having some kind of railroad tracks to maintain this form of transportation. And maybe our friends from Conrail will respond to that when they testify. But that's my concern that we have here.

Mr. ACKERSON. May I offer——

Mr. FALEOMAVAEGA. Please, by all means.

Mr. ACKERSON. The situation that we have under the National Trail System Act right now, it seems to me puts the railway system, even for national security purposes, at great risk. Because there was a comment made earlier that these agreements for trail use are voluntary agreements. Well, they're voluntary agreements between a railroad and a trail group. It's like three people saying—or two people saying, let's you and me take that fellow's land. It's not voluntary for the landowner, and it's not even supervised by the U.S. Government. So if there is a national security risk, that risk is there now. Unless a railroad and a trail group decide to pre-

serve something, the Surface Transportation Board says it has no discretion.

Now in terms of just preserving the railroad system for other purposes—and Mr. Faleomavaega, you mentioned a while ago that you were concerned about a 5-acre strip interrupting an entire trail if everyone else wanted the trail.

Well, there still can be an opportunity to accomplish that in the traditional manner that our Constitution and our laws have directed, including the laws of this Congress. And that is, if there is a legitimate public purpose, first establish it, and then allow condemnation to go forward. If there's only—if as some of the trail proponent say, 70, 80, 90 percent support it, then what is stopping it from being done in the traditional manner? And I tell you what is stopping it. Right now it's a matter of money. It can be acquired cheaper from the people who don't own it—the railroads—than it can be from those who do.

Mr. FALEOMAVAEGA. It can also be said by the same token, because there was a commonality of an economic interest. Everybody welcomed the railroads. So now that because of abandonment—because of economic reasons, now the whole picture has changed, and this is where we're at right now.

Thank you, Mr. Chairman.

Mr. HANSEN. The time has expired.

The gentlelady from Washington.

Mrs. LINDA SMITH. Thank you, Mr. Chair.

I want to make a comment to begin with. What I'm seeing is the acquisition and the immediate taking out of the rails, as quickly as possible, and sometimes changing of the structure around it to ensure they will not be rails again in our area. So, I can understand the concern. Yet, what we're dealing with today are property owners who are not considered in the decisions at all. So my concern with the property owners is that they're being told that by default that a greater good than their constitutional rights needs to happen, whether it be for maintaining the railroads or whether it be for maintaining trails, they're somewhere in between.

So I guess my argument today is that we can't leave them in between. They do have a superior right under the Constitution to their rights of property, and that's why we're here today for this particular bill.

I do want to commend the author for the superior job he's done. There's a lot of bills before Congress right now, and to get this up in the last 2 weeks he must have had a pretty compelling argument for the chair. But I know his passion for the rights of the property owner are strong, and he is representing the folks very well in his district on this issue.

I will just not ask any more questions. I don't think there are too many questions on this particular issue, except his bill should go forward to push the issue of protecting private property rights, which is the prime purpose of the sponsor. Thank you.

Mr. HANSEN. Thank you.

Gentlelady from California have any questions for this panel?

Ms. WOOLSEY. No thank you.

Mr. HANSEN. Gentleman from Kansas.

Mr. RYUN. If I may, I'd like to ask Ms. Glosemeyer a few questions. We've been discussing rights, if you will, and the entire trails issue.

Can you perhaps touch a little bit on, on what it has cost you in terms of the moving of our livestock to another location; some of the costs that are involved, the renting of additional land?

Ms. GLOSEMEYER. It cost us basically $100 a month, or $100 a week—I'm sorry—to rent housing facilities for our livestock. And that also creates the problem of bringing feed. We have the feed at our farm, and we have to haul it to the 2 miles away, which is several times a week we have to do this.

Mr. RYUN. I think it's interesting to note that when the actual railroad was running through, your animals were very comfortable with the railroad, and were accustomed to the sounds, and yet as a result of this——

Ms. GLOSEMEYER. There's were no problem with the railroad.

Mr. RYUN. [continuing] new transition, you've had to make quite a bit of adjustment.

Ms. GLOSEMEYER. What caused us to have to move—like I said in my testimony—was the threat of the trespass, which we did not have when the railroad was there. And we felt no hindrance to improving our farm and our livestock management.

Mr. RYUN. Thank you.

Mr. HANSEN. Mr. Woodbury, Glosemeyer—if I'm saying that right—how much of your farms—what would be the acreage size that we're talking about?

Ms. GLOSEMEYER. The trail is approximately a mile long through our farm, and approximately 100 feet wide, which would convert to about 12 acres of land.

Mr. HANSEN. And you stated in your testimony you had fee title to that, is that right? You have the deed to it?

Ms. GLOSEMEYER. Yes, we have the deed, and we also have the easement that was granted.

Mr. HANSEN. Do you pay taxes on that area?

Ms. GLOSEMEYER. We paid taxes up until 1985, when the State of Missouri determined that, because it was a railroad that as a landowner I should not pay the tax. If a tax were levied on it, I would be paying it, yes.

Mr. HANSEN. You hold title to it, but you don't pay taxes on it, is that right?

Ms. GLOSEMEYER. I did up until 1985.

Mr. HANSEN. Up until 1985. Who does pay taxes, anybody?

Ms. GLOSEMEYER. No. The railroad company—excuse me. The railroad company was levied at a tax on the property, and I believe now the State of Missouri makes a payment in lieu of taxes.

Mr. HANSEN. So any citizen can go on that property now, is that right?

Ms. GLOSEMEYER. Yes. It is opened to the general public, yes.

Mr. HANSEN. Is this about the same similar state with you, Mr. Woodbury?

Mr. WOODBURY. Mine would be somewhere approximately 8 to 9 acres on my mile that I've—that runs through our place. My abstract from 1886, we didn't own the property. In fact, the property that we own is in two different half mile sections, and it was in

approximately six different tracks in 1886 when it was bought. Everyone of the abstracts from June of 1886 say they condemn a strip 100 feet wide, over, across, and through the property for railroad purposes; and if the railroad—for that railroad and any of its successors, is what it says in the abstract from 1886.

Mr. HANSEN. You don't get an annual tax notice on it now, is that right?

Mr. WOODBURY. We pay taxes on the land, that is correct. We don't pay the railroad taxes. The railroad paid the farm greater majority of taxes on that land than what we did, but they were paying it on their tracks, not on the actual land that it was sitting on. We paid—I still continue to pay tax on the land that it's sitting on.

Mr. HANSEN. I see.

Were either of you brought into the negotiations when the rail-to-trail thing went through? Were either of you an active part of this?

Ms. GLOSEMEYER. No. Like I said in my statement, we read about it in the "The Post Dispatch" in the Sports section that there was the possibility of a trail being placed on the abandoned rail corridor. And as landowners began to realize that there was the possibility of this happening, we formed a group to take it to court to reclaim the land as ours, according to what Missouri state law should have given to us. But not once did anyone from the Rails-to-Trails group approach us and say, this is what we would like to do with your property. We were never a part of any negotiation, nor was there any notice given to us directly.

Mr. HANSEN. Then apparently you weren't approached either on the idea of compensation for the ground?

Ms. GLOSEMEYER. No, sir.

Mr. HANSEN. So in effect, you have title to property, you don't pay taxes on it. You have no control over it. But you have some kind of quasi title, I guess, therefore you can't do anything with it; you can't use it; you can't sell it; you can't do anything, is that right?

Ms. GLOSEMEYER. I'm not allowed to do anything with it. No, sir, it's part of a state park, but I do own it. My deed is still there, and I still have an easement that says it could not be used for any purpose but a railroad.

Mr. HANSEN. What happens when you argue the fact that the Constitution says you have to be compensated for your ground? What's the response on that?

Ms. GLOSEMEYER. I believe in our Constitution. I believe the Constitution was written so that this very thing would not happen to me; that a private group could not, without my consent, take and use my property. I believe it was written there so I would be part—so they would have to negotiate with me as to how my land would be used. Did I understand your question correctly?

Mr. HANSEN. One of the greatest arguments that goes around this Committee is taking by the government, and being compensated on it, whether it's wilderness, waterways, roads, whatever it is. And I guess we're going to have to bring that back to the middle somewhere. I think we got a little extreme on some of it.

Did you have a comment?

Mr. RYUN. Yes, I have a question for Mr. Ackerson. I know you've worked with a number of different landowners throughout the country. Could you comment on perhaps some of those who have actually had to buy their land back, or perhaps who have—they don't have use of it anymore, but perhaps they've had to buy it back.

Mr. ACKERSON. One of the greatest abuses that I think has happened as a result of this Act being in place, is that persons have seized control of the land—including railroads—not for the purpose of converting it to a trail, but for the purpose of extracting money from the very people who own the land, requiring landowners to pay railroads to get their own land back under threat of taking it for a trail. If a railroad can hold out the threat of railbanking, even when the railroad does not own the land it can demand money from the landowners, and yes, I've seen that happen in many instances.

In fact there have been instances where Federal money through ISTEA has been used to pay the railroad, which does not own the land, to convert the land to a trail, and we have a possibility—although it's going to be expensive—for the landowners to be paid by the United States by going to the Court of Claims so the United States pays for the land once again. And there's even a third possibility, because in some of these instances we know that the railroads have donated their land, which they don't own, and have taken tax deductions as if they owned it.

So we have a triple hit by the taxpayers, and we also have a double hit on the landowners, because the land they've already paid for, and they own, and they're paying taxes on, under the threat of it being railbanked, they may have to pay the railroad for it one more time in order to avoid railbanking.

Now we've seen that done through a method of bidding. A railroad will say, we're going to railbank this, but if you landowners want it back, you can bid more and we'll sell it back to you, even though we don't own it.

Mr. HANSEN. Thank you, we're 3 hours into this hearing. We've got three panels to go. So I appreciate the patience. You've folks have been here, and traveled a long way to be here. I will excuse this Committee, and thank you for your testimony.

Panel 4 is Edward Norton; the Honorable Janice Hodgson, Mayor of the city of Garnett; Bill Newman, and Richard V. Allen.

We appreciate the panel being with us, and you know the rules. We'd really appreciate it if you'd stay at 5 minutes. Mayor, I don't know if you do that in city council meetings. I used to have a hard time when I was in your position.

We'll start with you, Mr. Newman, and if you could stay within your time, fine. You've got to realize that on the floor right now is a grazing bill, and our members—a lot of them are over there, and in and out, and around and about. And I guess people in the west have some great concerns on that, so no one's sliding you; we'll read a lot of your report.

Mr. NEWMAN. Mr. Chairman, if it's alright with you, could I yield to Mr. Norton to go first?

Mr. HANSEN. Whatever makes you folks happy.

Mr. NEWMAN. Thank you.

Mr. HANSEN. In what order do you want to go now?

Mr. NORTON. I'll be glad to go first, Mr. Chairman.

Mr. HANSEN. All right, then 1, 2, 3, 4. Is that alright, in that order?

Mr. NORTON. That's fine.

Mr. HANSEN. All right. Watch the clock.

STATEMENT OF EDWARD NORTON, BOARD MEMBER, NATIONAL TRUST FOR HISTORIC PRESERVATION

Mr. NORTON. I'll watch the clock very carefully. And thank you for the opportunity to testify this morning. I always look forward to testifying before this Subcommittee. Your jurisdictions touches subjects that are near and dear to my heart, and none more so that preserving our nation's rail corridors and our rail trail system.

On just a very personal note, as a young boy I used to ride with my Uncle Stewart, up the C&O line, from Ashville, Kentucky to Elk Horn City, on his locomotive, and I can honestly say that with respect to the Rails-to-Trails Conservancy, the national group that is involved in this issue, I was present at the beginning in the early 1980's when this movement got underway. So this is a subject that I've had some familiarity with all along.

The subject of this hearing this morning touches a subject within the jurisdiction of this Subcommittee that I think requires careful balancing of the different interests and values involved; private property rights, and private property values, as well as broader societal interest. And I think that in many cases—and this is exactly one—that many times those interests are much more compatible, and in fact reinforcing than they are in direct conflict, and that we can solve these things without taking a blunderbuss or meat ax approach to them.

I should also add that I'm testifying today on behalf of, not only the Rails-to-Trails Conservancy, but also the Surface Transportation Policy Project, which is a coalition of more than 150 organizations and individuals that include state and local government; the National League of Cities, the National Council of State Legislatures, and many organizations, and certainly the total membership of the Surface Transportation Quality Project probably exceeds 2 million people.

To get really right to the heart of the matter, we oppose this legislation. We believed that it would effectively destroy the national railbanking system, established under section 8(d); that it would destroy many of the benefits—additional benefits—of interim trail use under the present law; that it will really create—or eliminate any incentive for railroads to preserve their unused corridors. It creates a cumbersome, and burdensome, and confusing administrative process. And most important, for purpose of what we've heard this morning, it is our view that this bill will really not provide any significant protection to private property rights of the adjacent landowners.

We acknowledge that the private property rights of adjacent landowners are an important subject that must be addressed in any statutory arrangement like this. We are sensitive to those constitutional rights. We look to try to create expeditious, efficient means to resolve those rights, and to provide for compensation

where compensation is due under either state or Federal law, but this bill does not accomplish that purpose.

Let me very briefly respond to the remarks that have been made earlier about the origins and the implementation of section 8(d). I happen to have been around when this matter first began to move, and I really don't remember what happened in the House of Representatives, and I looked at this again last night.

I can tell you that the sponsors of this provision in the Senate—Senator Jim McClure form Idaho, Senator Malcom Wallop from Wyoming, and also Senator Dentor from Alabama. And I would never say to any of those gentlemen, having dealt with them on these kind of issues, that the put forward a piece of ill considered legislation. Nor has the implementation of this bill been ill considered, and its implementation really is not one that has been left to private rails-to-trails groups and also to the railroads.

If you look just at the Midwest for example, the George Michaelson Trail in South Dakota, which is 110 miles and named after Republican Governor George Michaelson. It's a federally banked rail trail. The Cowboy Trail, which was 320 miles recently discovered in Nebraska, and it was railbanked under the leadership of Governor Nelson. In that case the rail detail group was in fact the state agency. The same is true of the Katy Trail, supported and railbanked by Republican Governor, John Ashcroft. And certainly the Prairie Spirit Trail in Kansas was railbanked under the leadership of former Republic Governor, Mike Hayden. The state plays—and in all of those cases, with the possible exception, I'm not quite sure of South Dakota, the state is in fact the rail-to-trail agency. So the notion that this is some Federal, private group and railroad scheme fostered off onto landowners is just simply not correct in neither the legislative history nor the subsequent implementation of that law would suggest that.

With respect to the issue of property rights, which I'd like to squarely address, it's our position on this that people who are in fact actually agree have a perfectly added existing remedy to which they can go. We would be delighted to work with members of this Committee and the other interested groups to make sure that is both expeditious and fair. But it is simply not right to say that under present law, including the Supreme Court's interpretation of that law, that state law is totally preempted, and that person's right and their right to exclusive ownership under the right-of-way is preempted by Federal law. That in fact is the holding of the second round of the Preso case, decided by the Court of Appeals here in Washington, DC last year.

It should be absolutely clear that the Supreme Court decided 9 to 0, without dissent, that section 8(d) is constitutional. And the Court of Appeals have decided that property owners do have a claim—if they do have a claim—if they can establish ownership under state law, they have an existing remedy to which they can turn in the U.S. Court of Claims, and state that law—their rights to property will in fact be determined by state law.

I see my time is up, and I'll be glad to answer any further questions.

[The prepared statement of Mr. Norton may be found at end of hearing.]

Mr. FALEOMAVAEGA. [presiding] Thank you, Mr. Norton.
Mayor Hodgson.

STATEMENT OF HON. JANICE HODGSON, MAYOR, CITY OF GARNETT

Ms. HODGSON. Thank you.

Good afternoon, Mr. Chairman, and Members of the Committee. My name is Janice L. Hodgson, Garnett, Kansas, in the heartland of the Honorable Ryun's district. I'm accompanied to this hearing by Mr. Scott Lambers, city administrator of Ottawa, Kansas. He carries with him a letter from their mayor, and I carry one from my city manager that I would like to have entered into the record.

I am the mayor of a community in Kansas which has a railbank corridor, which runs directly throughout town. We currently receive a quality of life benefit from the National Trail System Act because we have a wonderful linear park, which connects both or city parks and reservoirs with the town square. the Prairie Spirit Rail Tail between Richmond and Welda, Kansas, with Garnett as a central point, is now completed, and it's providing tremendous economic development and tourism results for the city of Garnett. Users are experiencing a healthy safe place to walk, ride and bike as they enjoy all that nature has to offer. Ground breaking ceremonies for Phase II from Richmond to Ottawa occurred just last Friday, October 24th. This is the first major tourism project for this area, and the first rail trail in the State of Kansas. The $1.3 million project was started by the Kansas Department of Wildlife and Parks, and the Kansas Department of Transportation. This project was funded by ISTEA funds, and we wish to thank the United Congress for authorizing the highway transportation moneys for this use. We were required to provide 20 percent of the funds to complete this project, and these funds were provided by state and local government, and private contributors.

The city of Garnett, through its economic development office, is keeping a close eye on the use of the trail, as well as the impact that it has on our local economy. I promise that we will do everything possible to ensure its continued success. We are committed to maintain 3 miles of the trail that runs through our corporate limits. Garnett is a rural community of 3,200 people. We are a community of volunteers and hard-working people who understand what an enormous project the trail is, but we are willing to work hard to provide a quality of life environment, not only for our citizens, but for the many visitors that we are attracting to our area.

Sales tax collections reflect a 10 percent increase from 1995 to 1996, and project the sales tax revenues from 1996 to 1997 will increase by 15 percent, which we feel can be attributed somewhat to the trail users that are coming to our city. The proposed amendment to the National Trails Act would remove the Federal law's ability to override state law. Supporters of these amendments want the states to be able to decide how these corridors should be preserved, yet by the current statutes in Kansas, these right-of-ways would be disposed of as soon as they are abandoned, and by dividing the right-of-way among the current owners of the adjacent property.

There is no mechanism in the State of Kansas to preserve rail corridors. The Kansas statute divides all property, regardless if the land was from a direct grant from the U.S. Government to the railroad, or obtained through an easement. The railbank corridor, which travels through our community, was established in the 1860's, and 40 percent of the rail right-of-way was from a direct grant from the U.S. Government. Other parcels were obtained through donations and the purchase of easements. Without railbanking, all of these would be divided among the adjacent landowners of the current Kansas statute.

The corridor could be lost, and with it any hope of future reactivation, either for freight or for a possible light rail connection to Kansas City. In the meantime, our town would be deprived of a major resource for economic development. In 1996 Governor Bill Graves issued a 1-year moratorium on the construction of the second 15-mile section of the Prairie Spirit Trail. This would allow the county commission for the country through which that section passed to have the right to stop construction by simply voting not to allow the trail to pass through their county. The moratorium was for 1 year. In that time the County Commission never called for a vote on the trail. After the year was over, the moratorium was lifted, and the plans for construction began.

For these reasons, I am here to discourage any amendment to the National Trail System Act, which would place the Act in danger, and fail to provide a nationwide plan for the conservation of rail corridors.

I appreciate the time that you've given me to express our opinion. Please visit our area and the first Kansas rail trail.

[The prepared statement of Ms. Hodgson may be found at end of hearing.]

[The information referred to may be found at end of hearing.]

Mr. FALEOMAVAEGA. Thank you, Mayor Hodgson.

Mr. Allen.

STATEMENT OF RICHARD ALLEN, LANDOWNER

Mr. ALLEN. Thank you, Mr. Chairman, it's a pleasure to appear here today, although I must admit that I'm more accustomed to testifying on matters pertaining to nuclear throw weights, perhaps China, which may be an easier topic today than the one under consideration by this Subcommittee, the Soviet Union and other national security topics.

I am Richard Allen, and I come today as a property owner near—with property near the soon to be abandoned Southern Pacific Tennessee Pass line of 178 miles. As a committed mainstream—and by mainstream I mean to say Reagan Republican—and as the author of the term "Reaganaut," I use that term very discretely—by disposition I'm committed to uphold in the rights of individual property owners, and I am sensitive and well aware of the property rights issues concerned with this matter at hand.

I'd like to suggest that I limit my remarks, Mr. Chairman, to four brief points. First, because I believe in the promotion of our national security interest, I'm going to speak about that issue. Second, I'd like to stress the importance of preserving the famous Tennessee Pass rail line, one of only two rail corridors crossing the

great Rocky Mountains to Colorado. Then I would like to talk about the level—the high level—of local support in the region for this perspective conversion. And fourth, I would like to remind members of this Committee and Subcommittee that the nation's railbanking statute was signed into law by President Reagan in 1983, and President Reagan, certainly one of our most determined and fierce protectors of property rights.

I served two presidents in the White House on three occasions, and other public officials, and I've worked and consulted widely with Members of Congress for many many years since the early 1960's. And as long time advocate of national defense, I am extremely aware of national transportation polices which either will add to or subtract from the national security interest of the United States. So I should like to say emphatically that from my point of view, the railbanking program strongly supports our national security interest, and that eliminating or compromising the railbanking program could compromise our ability to defend the Nation in the time of crisis, especially a time of extended crisis.

You might recall that the interstate highway system was first proposed by President Eisenhower as a national defense highway system. It was proposed under that format because of the need to move material, troops, and other vital materials from one point of the country to another efficiently and quickly. Although our nation's rail corridor system was primarily developed by private interest, it's no less important to the strategic protection of our nation in times of war or global unrest. Railbanking is a common sense alternative to ensure that the constructed rail corridor system remains intact, even though current economic conditions may make in infeasible to run trains on those lines.

There's also a national security of railroads system map, just like the national defense highways system map, and this map identifies railroads whose preservation are considered essential for the national security. The proposed legislation H.R. 2438 would actually preempt this important strategic system, by allowing states at their own election, and without regard to the larger national strategic considerations involved, to make decisions about whether to protect portions of the security railroad system. And while it may be unusual to raise national security issues before this particular Committee, we can all appreciate the long-range importance of these issues.

In Colorado, with the merger of the Union Pacific and Southern Pacific Railroad the great Tennessee Pass rail line is being abandoned. We can all marvel at the truly significant engineering accomplishments that made possible the development of this corridor, which includes 119 bridges and more than 4,100 feet of tunnels through the Rocky Mountains. Under current abandonment procedures, unless the corridor is railbanked under the national railbanking statute, all 119 bridges would have to be dismantled, or would represent a perpetual liability to the Union Pacific or the State of Colorado. This is not an unusual problem of course, but it is particularly acute there.

The Tennessee Pass corridor passes through 4 counties and 20 towns. Since the Union Pacific announced its intention to abandon the line, the State of Colorado has examined many alternatives,

held many hearings, had a lot of citizen input, and has developed what I would identify as overwhelming local support. Certain committees met and held extensive hearings so that public input could be heard, and the result is a very high level of support for the trail system as it is to be proposed there. Chambers of commerce and other businesses are very importantly behind this.

I had the opportunity to discuss this just the other night in Colorado with the Honorable John Fawcett, the mayor of Avon, Colorado. And he informed me that there is virtually no opposition whatsoever in the region and certainly not among his own people. In the County of Eagle, in which Avon is located in the town of Edwards, there has been a newly instituted one-half cent transportation tax, of which 10 percent must go for rails, rather for trails. This is an extremely important concept, and $4 million has been appropriated from the GOCO, the Greater Outdoors Colorado Foundation for this purpose.

Finally, I will suggest to members of this Committee and the House of Representatives, that the statute was signed into law by President Reagan after due consideration of his entire staff, his administration, and particularly by the ever tough and omnipresent Office of Management and Budget. I suggest that this Committee follow President Reagan's leadership, and refrain from weakening or dismantling this important legislation, which helps to implement our national policy of preserving the built rail corridor infrastructure. Thank you, sir.

[The prepared statement of Mr. Allen may be found at end of hearing.]

Mr. FALEOMAVAEGA. Thank you, Mr. Allen.

Mr. Newman.

Mr. NEWMAN. With your permission, Mr. Chairman, I'd like to summarize my remarks, and you have my written statement for the record.

Mr. FALEOMAVAEGA. Please.

STATEMENT OF BILL NEWMAN, VICE PRESIDENT AND WASHINGTON COUNSEL, CONRAIL

Mr. NEWMAN. Good morning or good afternoon, I guess by now. My name is William Newman, and I'm Vice President of the Washington Counsel for Consolidated Rail Corporation. And for those who don't know, Conrail is the fifth largest Class I railroad in America today.

I appreciate the opportunity to testify on behalf of Conrail, and I'm here today to extol the benefits of the Rails-to-Trails program. But before I do that, I'd like to just take a minute to bring the people on this Committee up to speed about the Renaissance that's going on in the freight railroad industry today.

Many people harken back to the early 1970's when our industry was on very hard financial times; over 25 percent of the railroad network was in bankruptcy. Today in good part, due to the passage of the Staggers Rail Act, our industry is prospering. I'm pleased to say that among other things, we offer better service, we have newer technologies, and we are also benefiting I think from the shortage of drivers in the trucking industry. We're also benefiting from the fact that there are limited resources to attend to the

needs of our highway system, but basically the railroad industry is thriving today.

Notwithstanding that, we still are all businesses, looking to shed unnecessary costs where we can. And historically as you know, the way the industry dealt with lines that it no longer needed was to abandon them. In fact, as I pointed out in my testimony, the Class I railroad industry had 200,000 miles—road miles in 1965 and the Class I network now is down to slightly over 100,000. Abandonments, which are the virtually irreversible dismantling of rail corridors, were the predominant method of disposing of these lines before the 1980's. Then in the 1980's two alternatives to abandonments arose; both of them we believe are better in terms of preserving existing rail service, allowing the future potential of rail service, and improving overall public policy.

The first was the development of the short-line sale program, whereby uneconomic lines are sold to short-line operators. Conrail has 170 of them connecting to us today, and they're roughly 20 percent of our business. But for the lines for which there is no foreseeable future of viable rail service, the Rails-to-Trails program has offered an alternative to abandonments, which would usually, as I mentioned, result in the dismantling of a corridor, thus making the corridor virtually impossible to be reconstructed for rail use.

The Rails-to-Trails program preserves rail lines by authorizing trail use and railbanking through agreements with interim trail users, made on a voluntary basis, subject to reactivation and interim user assumption of liability in connection with trail use, and the payment of taxes, and without, from the railroads perspective, burdening the abandonment process.

Congress carefully struck a balance between multiple goals in the Rails-to-Trails program. It preserved rail rights-of-ways and the rights of the railroads to dispose of their property as they see fit. It induced the railroads to enter into agreements to have the interim of trail user assume the tax and legal liabilities, which otherwise might be formidable hurdles; and facilitated the marketing of entire rights-of-way segments in the economic development with such marketing. It allowed for the potential reactivation of the right-of-way by the railroad should demand arise for it, and it assured the redress for the rights of the adjacent landowners, who have compensable property interest in the right-of-way at issue. We believe that the courts and the ICC, which is the predecessor to the Surface Transportation Board, have preserved the balance struck.

Let me focus if I can for a moment on the pending legislation. Conrail believes H.R. 2438 would eviscerate the Rails-to-Trails program for the following reasons beginning with the repeal of the policy statement. In particular, the repeal of the quote, "to preserve established railroad rights-of-way for future reactivation of rail service; to protect rail transportation corridors" and "the interim use of any established railroad right-of-way" not being treated as an abandonment, combined with the non-exemption of state property law provided for in section 5 is, with the pun intended, a total abandonment of the policy to preserve rail corridors for interim use, with the possibility of reactivation for future rail use.

Indeed, the bill is intended to give primacy to the interests of adjacent property owners, but sacrifices the policy of preserving rails

rights-of-way and the possible reactivation of rail service in doing so. Other sections of H.R. 2438 are intended to cripple or burden the rails-to-trails process, by leaving it ambiguous as to has the liability for taxes on the right-of-way, the liability for the adjacent property owners' interests, and making the Surface Transportation Board process potentially more litigious, extenuated, and consequently less predictable. In conclusion, Conrail believes the rails-to-trails process works well as presently constituted, and we would urge Congress not to tinker with it.

[The prepared statement of Mr. Newman may be found at end of hearing.]

Mr. FALEOMAVAEGA. The gentleman from Kansas for questions.

Mr. RYUN. I'd like to direct my question, if I might, to Mr. Norton. You said something early in your testimony I would like to look at.

While it's true that landowners can go to claims court—and by the way that's a very expensive process for landowners throughout this country to travel all the way back here to Washington—this arrangement gives great advantage to your group to take the people's property, and then let those landowners seek some sort of help along the way in an appeal.

You seem to be sensitive, and you made that comment earlier that you want to be sensitive, sensitive to compensation, landowners and property rights issues to the point where it's an inconvenience to you.

How do you respond to that? Isn't that the way it would be, that it's more of an inconvenience to you than anyone else?

Mr. NORTON. I'm not sure I quite understand the question. But let me address the property rights issue and the issue of the cost—the process for resolving these issues and the cost of that.

First of all, I don't understand how this proposed legislation—assuming for the moment that we do have a costly procedure, a very costly procedure, a time consuming procedure—that I don't understand how this statute in any way resolves that. I don't understand how property owners who have legitimate claims will be really in any different position.

The underlying question always is, who has title to the land, what is the extent of those rights, what were the rights that were given up, what were the rights that it retained. Those issues are determined under state law, and under the terms of the deeds from the railroads, and they are very fact-specific. Whether those are resolved in the Court of Claims, or in state courts, or otherwise, these issues are always going to end up to some extent—they're always going to end up in the court.

Mr. RYUN. Mr. Norton, may I interrupt just for a minute. I'm going to have to run for a vote. But I see the process as being best handled at a state level, where they have the opportunity to condemn that land, and to go through the process, if you will, compensation; whereas in this process it's very expensive, and it really does lean toward those of you that are here as opposed to the small landowner, that's back some place else in the United States.

Mr. FALEOMAVAEGA. If the gentleman from Kansas would yield, because you have a vote, and I know this is a critical panel that you would like to raise some additional questions, I'd be more than

happy to maybe give a 10-minute recess for you to return, and may want to raise additional questions, if that's all right with the gentleman.

Can the members of our panel have just a little patience, and the gentleman will come back, and we will continue with the questioning. Thank you.

The Committee will be recessed for about 10 minutes.

[Recess.]

Mr. FALEOMAVAEGA. We'd like to regroup, please, panel.

I am not sure if Mr. Ryun will be coming back, but certainly every opportunity will be given to him to raise additional questions. In fact, we'll even allow the gentleman to submit more questions for the record if he wishes, and then to the members of the panel.

I want to thank the members of the panel for their testimonies. This is always what makes democracy quite interesting, that you have an entirely different perspective from the other panel which gave their statements earlier.

I do remember Mr. Richard Allen, with utmost respect for your tremendous service to our country at the time when you served as national security advisor to President Reagan, and I want to offer my personal welcome to you, sir, and a job well done, if that's a better way of saying it.

Mr. Newman, on the issue of our whole—I kept asking these same questions, but I don't know, maybe I'm going over my head in trying to focus a little more specifically on our general overall national policy. It's not about land rights, it's not about the taking or easements; I'm talking about the situation with our whole railroad company or industry, if you want to put it those terms.

You indicated earlier that we are getting a little better than it was before.

Mr. NEWMAN. That is correct.

Mr. FALEOMAVAEGA. Do you think that there is a future for the railroad industry to be expanding even more?

Mr. NEWMAN. Let me kind of reiterate some of the things I touched on in my testimony.

The railroad industry is going to continue to grow. The railroad industry, I believe—I feel very confident—is one that will get a bigger piece of the freight traffic that is out there. We are doing better. There are external forces at work that help us. However, as I mentioned, we will do more with less, as everybody in this world seeks to be more productive.

So, if your question is, will there be new lines of railroad, not likely. As I mentioned with the short-line program, one of our primary goals is the preservation of the rail network, because after the railroad is gone, in our view, it will not come back unless we preserve the corridors. That's why our preference, when we have a line that does not make economic sense, is to sell it first to a short-line operator, thereby perpetuating rail service. And the fallback to that is, if that doesn't work because the economics aren't there, then we look to something like rails-to-trails.

Mr. FALEOMAVAEGA. See we've got a problem here. We have a national policy with reference of maintaining the basic structure or the integrity of our transportation system, which the railway sys-

tem is one of those very important aspects of our whole transportation system.

You're talking about an issue—what is it annually in terms of the gross and passenger, industry, and cargo commodities?

Mr. NEWMAN. The railroad industry is roughly about a $35 billion revenue industry; this is the freight industry. In addition to that, as you know, you have Amtrak, who's revenues are slightly over a billion dollars. You have a great number of commuter agencies across the country, many of which—particularly I'm familiar with Conrail—most of which operate over our freight lines. We share those lines. And indeed, with respect to Amtrak, we share the Northeast Corridor with them.

The railroad industry carries 60 percent of our nation's coal, carries about 70 percent of our finished motor vehicles, carries grain, carries chemicals. As I mentioned, we are increasingly carrying all kinds of merchandise in our internodal trains. Our internodal trains are growing phenomenally. Our industry as far as I'm concerned is only going upward.

Mr. FALEOMAVAEGA. And Mr. Norton, you've indicated that you do have some very serious problems with the provision of Mr. Ryun's bill. His suggestion is that we ought to just let the state government take care of this, in terms of the reversion of the status of the land, if it's abandoned by the railroads.

You're talking about how much—I notice Kansas, I think, has about, what, nine trails, rail trail systems in Kansas currently?

Mr. NORTON. I think that's right currently in Kansas. There is actually an exhibit at the back of—it's actually three, three existing; it's attached to our testimony—three open trails in Kansas at least, as I look at those numbers.

Mr. FALEOMAVAEGA. I noticed that Mr. Allen makes a very interesting comment about the fact that our railway system has very far-reaching the national security considerations. And I'd like, Mr. Allen, if you can elaborate a little further, how does a railroad have to do with our national security interest?

Mr. ALLEN. Well, Mr. Chairman, if you could imagine a period of prolonged crisis, and the need to mobilize resources, you would quickly I think understand the requirement to keep open the option; to have always the option to revert to putting rails back down.

I speak from the limited experience that I have in Colorado. The railroad wants to take up those rails, use them someplace else; they're heavy duty rails with a special high quality, and take up the ties, and so on and so forth. But there may be a time when it has to go back in. For example, the misfortunate—or the unfortunate fact that there were a building or something in existence, the railroad would have a hard time—and I think you pointed out earlier—going around those square corners. Put back in a railroad in time of great national need, or prolong national crisis would be a very important consideration. And it's my understanding that there had been certain reconversions where economic feasibility indicated that that should be done. But for long-term national security considerations it seems to me to be vital to keep open these main rail corridors, and to have the option to have them converted once again to their original use. That's why I believe that nothing should be done to disturb the existing system.

Mr. FALEOMAVAEGA. Thank you, my time is up.

The gentleman from Kansas.

Mr. RYUN. Yes. I'd like to direct that question, if I may, a little bit to Nels Ackerson, with regard to national security. If you would comment on that. I know you mentioned earlier you would like to do that.

Would you please do so at this point?

Your microphone is not on.

Mr. FALEOMAVAEGA. Could you turn your mike on, Mr. Ackerson?

Mr. ACKERSON. My reaction will be one of common sense, and not born of the national security experience of Mr. Allen, so I don't question at all the legitimacy of his concern. What I hear though, is that there is a national security reason to preserve the existing corridors, and if so, that should be addressed it seems to me in the present law as well as any future law. And it seems to me it could be addressed rather effectively by simply permitting the Department of Defense to determine, during the abandonment process, whether this is a corridor that should be preserved for national security purposes, and if so, then the traditional condemnation process in eminent domain proceedings could take effect, and that corridor could be preserved during the period in which that condemnation action goes forward.

It seems to me that is a matter, to the extent there's a national security interest, that is right now, because right now the United States has no other way to preserve that corridor, unless by chance a railroad and a trails group happen to agree to.

Mr. NEWMAN. Mr. Chairman, may I address this question, because I know a little bit about it, coming from the rail side.

Mr. FALEOMAVAEGA. The gentleman from Kansas, it's his time.

Mr. RYUN. Yes, you may.

Mr. NEWMAN. Mr. Ackerson is exactly right. The people don't realize that the Department of Defense is a major railroad shipper, and when the railroad proposes to abandon the line as one of the shippers, they are served with notice of the proposed abandonment, and the Department of Defense has, and I assume, will continue to be a purchaser of these lines. They have from time to time stepped in and bought lines. And in fact they, in several cases, operate their own service to reach the outlying rail network.

Mr. ACKERSON. And that could remain the same I think in the continuing law if your bill were to be passed, Mr. Ryun.

Mr. RYUN. And that's correct. That's how I see my bill at this point in time, that it really doesn't threaten that particular issue.

Mr. ALLEN. May I make a comment, sir, although it's on your time?

Mr. RYUN. Mr. Chairman?

Mr. FALEOMAVAEGA. The gentleman from Kansas, it's his time, but if you would allow Mr. Allen to respond to your concern.

Mr. RYUN. I'm finished at this point. That's fine. Thank you.

Mr. FALEOMAVAEGA. Do you have any further questions, sir?

[No response.]

Mr. FALEOMAVAEGA. OK, Ms. Woolsey.

Ms. WOOLSEY. I will let the gentleman at the end of the table answer on some of my time, Mr. Chairman.

Mr. FALEOMAVAEGA. Mr. Allen, go ahead.

Mr. ALLEN. Thank you. I was just going to point out very briefly that national security is a much broader consideration than simply the Department of Defense. And my second observation, meant somewhat lightly, is that the last place I would go for a quick resolution of a problem or a study, is the Department of Defense, and ask them to determine anything with clarity recision within a reasonable frame of time. And I think the Congress itself has its own experience in that regard.

So, the basic point I'd like to make, however, is national security is not limited to what the Department of Defense has to say about anything; it's a much broader concept, and especially as we learn this fact of life in the post-cold war world.

Mr. FALEOMAVAEGA. Will the gentlelady yield?

Ms. WOOLSEY. Yes, I will yield.

Mr. FALEOMAVAEGA. Mr. Norton, please enlighten us, what can we do to help these landowners that are telling us their sense of grievance? Now, you've indicated they do have access to the Federal courts, costing them hundreds of thousands of dollars.

Is there another option that is available for these landowners?

Mr. NORTON. Well, thank you for asking that question. Actually Congressman Ryun and I were in the middle of a conversation about that when you had to recess. Let me try to pick up that answer.

First of all, I would say that we all should work together to try to find the right forums and the expeditious processes by which property—legitimate property rights can be adjudicated. This has to be an adjudicatory process; it is the essential nature of these issues. I do not think you can escape that. It will have to be in state court—in Federal court or the Federal courts of claims. But the process will have to be adjudicatory.

I think you've heard very compelling testimony here today that the bill, as introduced, for a number of reasons would destroy any incentive on the part of the railroads. We've heard it from the railroad industry to preserve unused rail corridors. I think that we need an approach, with respect to these property rights, that employs the scalpel rather than the meat cleaver on these issues. And we would be very anxious to work with the Committee in order to do that.

From my own experience litigating cases in both state and Federal courts, local courts, state courts, Federal courts, I don't believe that state courts are necessarily even the best or the most expeditious place in which to resolve these issues. I know that the Court of Claims does have procedures now that allow for the Court of Claims to act as essentially circuit writers. A great deal of this can be done in an expeditious way, and maybe it would be better.

I would conclude by saying that, I think that this is an issue on which this Committee should get some really good legal advice. I think there's been some bad legal advice about these legal issues, and the constitutional issues, and the court decisions bandied about today. I think you should get some good independent advice on this, and develop a consistent position with respect to property rights.

Recently, the House of Representatives passed H.R. 1534, which allows, Congressman Ryun, private landowners and developers to

bypass state and local court systems, and go directly to Federal court, even bypassing state administrative processes. And I think what we need to do is really look—this issue is coming up over and over again, and we need to look at a way that these legitimate property rights can be expeditiously adjudicated.

Mr. HANSEN. [presiding] Thank you. Any other questions for this panel?

Mr. RYUN. Just a comment. And that is, the bill you mentioned, H.R. 1534, while it has passed the House, has not been signed into law yet, so it is still to be——

Mr. HANSEN. We'll excuse this panel, and thank you so very much. Appreciate the patience of all you folks today. All heck could break loose on the floor any minute on the grazing bill, and we've got to move right along here, if we can.

Our fifth panel is Steve Kinsey, Robert Berner, and Sharon Doughty. If those folks would like to come up, we'd appreciate it.

Well, thank you very much for being here; we appreciate your presence. I would appreciate if you stay within your time, not that your testimony isn't extremely important, but we're going to have bells going off, and we're going to sit here to 8 if we don't get some of things going.

So, Mr. Kinsey, we'll start with you, sir.

STATEMENT OF STEVE KINSEY, SUPERVISOR, FOURTH DISTRICT, COUNTY OF MARIN

Mr. KINSEY. Thank you very much. My name is Steven Kinsey, and I do appreciate your durability today, as well as this opportunity to address you on behalf of the Marin County Board of Supervisor, and as a representative voice for the quarter million residents of Marin County.

The district that I serve is a very vast part of Marin County, comprising almost two-thirds of its land mass, and virtually all of it's agricultural lands; as well as the great majority of its Federal parks and its recreation areas. It's a privilege to serve the spectacular and diverse community of Marin.

Mr. Chairman, the Marin County Board of Supervisors unanimously supports H.R. 1995, because this legislation sets up a voluntary cost-effective collaboration between Federal and local governments that can help protect our region's agricultural heritage and, one of our nation's most popular national parks at the same time. I'm pleased to report as well that my colleagues on the Sonoma County Board of Supervisors, our neighbors immediately to the north, equally share our commitment to passage of this bill. Additionally, throughout each of our counties there is an overwhelming majority of residents who strongly favor the protections that will be provided by this legislation.

H.R. 1995 offers real relief for ranching families committed to sustaining their way of life. Farming has never been an easy job. Farming on the urban edge is even more challenging, due to the relentless pressure development exerts upon the fertile soil.

Like so many ranchers across America our region's farming families are often land rich and cash strapped. This legislation can deliver the vital funds many ranchers need to finance repairs and improvements in their operations, to comply with emerging regulatory

requirements, or to diversify into entirely new agricultural venues. In return, the environmental character and the productive value of the land can be retained in perpetuity.

I'm not sitting here today asking the Federal Government to unilaterally undertake the salvation of our region's agriculture. Marin has a 25-year history, a very proud history, of working to effectively preserve our historic agricultural lands. We've utilized many tools, including low density zoning, acquisition of conservation easements, and diversification of the industry beyond our historic beef and dairy markets, toward reaching this goal of protecting our agriculture. Today Marin ranches in addition to beef, sheep, and dairy, also produce high quality vegetables, grapes, berries, and even an emerging market in olive oil.

In spite of Marin's historic efforts to protect our agriculture, H.R. 1995 is urgently needed to assist ranching families who choose to continue their way of life, and pass it on to generations to come. Without this program those cash-strapped families will have no other choice except to sell out or seek to develop their property. In fact, for the first time since creating our coastal ag zoning, an application to develop a sprawling 20-unit subdivision on a 1,200 acre parcel within the proposed Protection Act boundary, has been submitted, and it's expected to be deemed complete by our County's staff tomorrow on October 31st.

The proposal reflects the maximum density permitted under the Marin 60-acre zoning. Similar proposals are sure to follow this precedent-setting effort, and as each one is submitted, the pressure for adjacent property owners to follow down that path will surely increase. Passage of H.R. 1995 will certainly stall that trend.

It is not Marin's intention that property owners be denied the ability to propose such developments if they desire to do so. However, H.R. 1995 offers a voluntary alternative to development. Individual ranchers can decide for themselves whether or not to participate in the program. This is far different than the circumstances an earlier generation faced when the Park Service was acquiring lands in the national seashore.

There are other provisions of H.R. 1995 that I'd like to bring to your attention today as well. H.R. 1995 requires the local community to continue to invest in protecting our agriculture. Fifty percent of the funding for easement purchases must come from non-Federal sources. Purchase of conservation easements instead of the costlier fee purchase in most instances, will allow more agricultural lands to be protected for less Federal dollars. The land will also remain on local property tax rolls, particularly important to me as a supervisor, and particularly important to the schools in our country, as well as to the other important service districts that receive property tax funding.

In conclusion, I wish to reiterate my deep gratitude for the opportunity you've made for us to speak to you on this matter today. In this year of shrinking government and a renewed commitment to private property rights, H.R. 1995 provides your Committee with an innovative opportunity to protect the family farm and our national treasures, without breaking the bank or infringing on an individual's freedom to choose. I urge you to breathe life into this important legislation, adding your own contributions to its innovative

structure so that it can serve not only the coast of California, our remarkable Marin County and Sonoma County; but also serve as a national model for a way to protect agriculture on the urban edge. Thank you for your time.

[The prepared statement of Mr. Kinsey may be found at end of hearing.]

Mr. HANSEN. Thank you very much.

Mr. Berner.

STATEMENT OF ROBERT BERNER, EXECUTIVE DIRECTOR, MARIN AGRICULTURAL LAND TRUST

Mr. BERNER. Thank you, Mr. Chairman and Members of the Committee.

My name is Robert Berner. I am executive director of Marin Agricultural Land Trust, a non-profit organization, whose mission is to help preserve productive farmland in Marin County. I speak for MALT and not for any other organizations or individuals.

Farmland makes Marin County one of the most unique and beautiful places in the United States. Agriculture preserved what is now Point Reyes National Seashore from second home, suburban and commercial development, until it was set aside as a national park. Agriculture today serves as the gateway to Point Reyes National Seashore, and is an integral part of the values, quality and character that makes Point Reyes one of the most visited national parks in the country. These are not hobby farms, but economically viable businesses, many of which have been in the same families for three and four generations.

But farming on the edge of the country's fourth largest metropolitan area brings development pressures and rising land prices that threaten the future of agriculture. When Point Reyes National Seashore was created in 1962, there were 3 million people in the northern California Bay area; today there are over 6 million.

The most pernicious threats to agriculture are insidious and largely invisible. County land use policies protect against sprawl development with low density zoning, typically one unit for every 60 acres. The State Williamson Act allows agricultural landowners to be taxed based upon our agricultural land values rather than market values. But zoning and the Williamson Act do not protect against high agricultural land values driven by the proximity of our agricultural lands to the metropolitan bay area, or rural sprawl characterized by low density residential development. The average agricultural property in the county is 600 acres, making it vulnerable under local zoning to subdivision into 10 residential parcels.

For 17 years Marin Agricultural Land Trust has offered agricultural families faced with the need to capitalize some of the value of their land a conservation alternative through the purchase of conservation easements. We have acquired easements on 38 farms and ranches totaling 25,500 acres. The purchase of conservation easements has been critical to the survival of agricultural in Marin. Every rancher knows someone who would have been forced to sell their land, or unable to buy land, were it not for the purchase of a conservation easement.

Because Point Reyes National Seashore is a national asset and its protection and preservation a Federal responsibility, we think

it is reasonable and justifiable for the Federal Government to share in the cost of protecting the farmland which is so important to the character, quality, and environment of this enormously popular park. We do not think it fair to place the economic burden of protecting these lands solely on the landowners through further downzoning.

We offer to work in partnership with the Federal Government to permanently preserve the farmlands within the boundaries of H.R. 1995 through the acquisition of conservation easement in voluntary, compensatory transactions with landowners. The land would remain privately owned, privately managed, and on the tax rolls. MALT will help match Federal funds, and will undertake both acquisition and monitoring responsibilities entirely at our own expense, at no cost to the Federal Government.

I want to emphasize, Mr. Chairman, that MALT does not support legislation that makes private farmland park land; subjects landowners to Federal regulation; diminishes land values; or is not voluntary and compensatory. We do not believe that H.R. 1995 does any of those things. H.R. 1995 would help maintain privately owned agricultural land in private ownership and protect it from non-agricultural development, but protected from non-agricultural development by conservation easements purchased at market value in voluntary transactions with landowners, thereby preserving this area adjacent to Point Reyes National Seashore in the private agricultural land uses which have historically, and continue to be, compatible with and complimentary to the park. Thank you very much.

[The prepared statement of Mr. Berner may be found at end of hearing.]

Mr. HANSEN. Thank you.

Ms. Doughty.

STATEMENT OF SHARON DOUGHTY, DAIRY RANCHER

Ms. DOUGHTY. Good afternoon. My name is Sharon Mendoza Doughty. I am a lifetime registered Republican and a third generation dairyman, who was raised on a Historic B Ranch, which is now a part of the Point Reyes National Seashore. My family owned four ranches, totaling 5,000 acres, which became part of the Point Reyes National Seashore when it was authorized in 1962. My father and brother still operate a dairy on this land, under the reservation of use and occupancy with the National Park Service. After college I married a local dairyman, and in 1973 moved to a 773-acre dairy on the East Side of Tomales Bay, across from the Point Reyes National Seashore. This land is within the proposed area to be included in the Point Reyes National Seashore Farmland Protection Act. Since being widowed in 1984, I have continued to operate the dairy. We milk 300 cows twice daily, produce 2,500 gallons of milk. That along with 50 other dairies in Marin County provide 25 percent of the milk for the San Francisco metropolitan bay area.

My family and I are committed to agriculture. It is hard work, but it is what we know and love. Although it certainly was not our purpose, for the past 30 years agriculture has also preserved the east shore of Tomales Bay from development, that would otherwise

destroy the extraordinary pristine quality of the bay, and the integrity and character of the Point Reyes National Seashore.

As an active participant in the agricultural community, I am a 20 plus year member of the Marin County Farm Bureau, as well as Western United Dairymen, as well as the local Chamber of Commerce. In 1994 Governor Pete Wilson appointed me to the California Coastal Commission, where I served for 2 years. In 1986 the Marin County Board of Supervisors appointed me to the 15-member board of the Marin County Agricultural Land Trust, where I served for 9 years. I was chairman of that board for 2 years, as well as chairman of the Agricultural Committee for several years. MALT's nationally recognized program is highly respected by farmer and non-farmer alike. It has successfully purchased easements on 25,504 acres of the 150,000 acres critical to Marin's ag industry.

In the past to fund MALT easement program we have used money from a local foundation from the California Coastal Conservancy, as well as $15 million from State Proposition 70. There is still a long list of property owners who are interested in selling their easements on their land. We have twice tried within the county, and participated in another state proposition to obtain more funds, but have failed narrowing the two-thirds vote required. Because of the popularity of the Point Reyes National Seashore with the people throughout the United States the concept was developed that this open space along Tomales Bay deserves national support.

I was not especially enthusiastic about this idea in the beginning. We certainly do not need more land and public ownership in Marin County, and I had many questions concerning accessibility, funding, and administration. In the past 3 years Lynn Woolsey has closely listened to all the property owners and sincerely tried to address their concerns, while protecting the investment for the people of the entire United States. In its form today I am now in full support of H.R. 1995. No new authority to regulate private land is granted in this legislation. If and when the Federal Government purchases the conservation easement, the conservation easement protects the landowner. The conservation easements acquired as a result of this Act will expressly permit hunting, predator control, use of lawful pesticides, just as MALT easements do. MALT is specified in the bill to manage and monitor these easements.

My 773-acre property is very desirable for development. We are reminded of how desirable this property is every weekend by the guests of our bed and breakfast. However, I prefer to have the option to sell a conservation easement on this productive land, for me and my heirs to continue our stewardship of this land and agriculture. We have planted 5 acres of vineyards in an effort to diversify for viability. The money we could receive from this act would help us to buy more land for vineyards to build a winery, or creamery for a cheese operation without incurring heavy debt. We have four adult children who are very interested in agricultural operators. Upon my death, these funds could be used to help supplement my life insurance and pay my heirs' inheritance taxes, so my children would not be forced to sell the land.

Because of the positive experience that my family has had with the tenants of the National Park Service, I would willingly enter

into an agreement to sell my conservation easements to the National Park Service. For over 25 years the tenants of the National Park Service within the Point Reyes National Seashore have enjoyed a positive relationship. These tenants have together signed a petition, which I'm submitting as part of my testimony today to substantiate that relationship.

It reads, "We the undersigned ranchers and residents of the Point Reyes National Seashore wish to dispel certain misinformation about our relationship with the seashore. In particular, we would like it be publicly known that our relationship with the National Park Service is generally harmonious." And it is signed by the current tenants of the seashore.

I want to thank you very much for the opportunity to testify here today in support of H.R. 1995.

[The prepared statement of Ms. Doughty may be found at end of hearing.]

Mr. HANSEN. Thank you very much.

Questions for the panel?

Mr. Faleomavaega.

Mr. FALEOMAVAEGA. I would defer to the gentlelady from California.

Ms. WOOLSEY. Thank you very much.

Thank you very much, that was excellent testimony. Thank you for being so patient and waiting so long.

First, with Bob Berner. Can you tell me what the confusion is among those who are in opposition to this bill, regarding the Williamson Act? They seem to think that the Williamson Act will do the same thing as the conservation easements. I think they're missing a point.

Could you put that in words for us?

Mr. BERNER. Well, I can't speak for other people, but the Williamson Act is a short-term provision, an agreement between the landowner and the county, whereby the landowner is taxed based upon agricultural use rather than market value, in exchange for commitment to maintain the property and agriculture for a 9- to 10-year period.

Ms. WOOLSEY. But it does not add any new income to the landowner.

Mr. BERNER. That's correct. It does not address the problem I described of high land values and the difficulties of farming families when they have to treat the land as a financial asset, and not just as a natural resource. Zoning and the Williamson Act, public policy in general simply is not a tool, which is useful in a region like ours to address this economic problem.

Ms. WOOLSEY. And under H.R. 1995 wouldn't the land with agricultural conservation easements be taxed at ag value, not at development value? So they would still have the benefit——

Mr. BERNER. When a landowner sells the conservation easement, if that property is not already in the Williamson Act the landowner would, I think, invariably enter into the Williamson Act, a contract for the county, so it would be taxed based upon its agricultural use.

Ms. WOOLSEY. Thank you.

Sharon, you've come from a large ranching family, and I'd like, if you would, to go a little bit beyond your own concerns.

Do the other members of your family have concerns about this bill, and have we through our changes answered most or all of those concerns?

Ms. DOUGHTY. Yes. Besides my piece of property, my family also owns more property within this zone. And again, we are conservative farmers. There were definitely—my Republican father was very concerned about what this would mean to that property and to our family, and he has worked very closely—all of us have worked very closely in expressing our concerns, and he has—in the last version of the bill was very delighted with the changes that were made; felt that we could definitely live viably within what was being presented. And he said to me, that he was quite impressed with you, Lynn, because you had listened to us, and your tenaciousness in meeting with all of us, and finding out what we all needed and felt—you've done a wonderful job of representing us.

Ms. WOOLSEY. I guess I was the straight man for that one, Mr. Chairman. I wasn't asking for a compliment. I really wanted to make sure that I have answered a good number of the concerns of your family as well as the others——

Ms. DOUGHTY. Well, we certainly feel that you have been very tenacious——

Ms. WOOLSEY. Well, thank you.

Ms. DOUGHTY. [continuing] in making sure that our concerns were met, and that farming would in fact survive. That was the point.

Ms. WOOLSEY. Thank you.

Supervisor Kinsey, let's talk about the 2.5 million visitors that visit the Point Reyes National Seashore every year. It's one of the most visited national parks in the nation, and that keeps getting lost I think in what we're talking about here.

Those visitors travel through Marin County. What does that bring to your county?

Mr. KINSEY. Well, I think, Congresswoman, really it brings a tremendous amount to our county, not only the cultural exchange that obviously happens when you have visitors from around the world, but certainly a tremendous boost to our economy. And in fact, there certainly are 2.5 million visitors who come to the National Seashore each year. They are just a part of the over 6.5 million visitors who come to all of Marin County on an annual basis to enjoy, not just the seashore, but the Golden Gate national recreational areas as well.

Within the seashore itself I think Superintendent Neubacher mentioned earlier today that over $100 million a year is brought to the local economy, and that contribution has a tremendous benefit. It serves not only to increase the sales taxes and the overnight occupancy taxes that help to fund a number of our county services, including the public safety services that many rural communities cannot afford; but it provides the opportunity for many of our residents to work locally, which has enormous benefits to strengthen the family values, and to reduce the environmental impacts that long distance commuting provide to so many urban areas.

So I would say that there is a significant environmental as well as cultural and economic benefit to having the park, and we extend ourselves generously I hope to those visitors because we want to

provide a real sense of hospitality to people that come to Marin County.

Ms. WOOLSEY. Thank you, I've used my time.

Mr. HANSEN. Gentleman from California.

Mr. POMBO. Thank you, Mr. Chairman.

Mr. Kinsey as one of those people who has boosted the economy in Marin County on a number of occasions on my visits to Point Reyes. I can understand why the people are interested in protecting that area, and it is a beautiful area. And there's no question about that.

But what do you think this legislation—what power does this legislation give you, or what authority does it take to protect this area that you don't believe you currently have as the lead authority in land use planning in Marin County?

Mr. KINSEY. Mr. Pombo, I believe that this legislation is primarily developing an economic partnership between the Federal Government and the local community to fulfill our land use expectations and aspirations. It's a voluntary bill, and for those landowners who don't choose to exercise the options available through this legislation, we have—if not a welcome door, certainly an open door in Marin County that would allow individuals to apply.

As I mentioned in my testimony, we currently have a proposal on a 1,200-acre ranch for a subdivision of that ranch, the first of its kind within the coastal ag zoning. I would say that this is not about fulfilling our land use expectations in ways that we cannot as Marin County; this is about strengthening the partnership between the Federal Government and the long-term efforts of Marin County to sustain our agricultural heritage.

Mr. POMBO. So, in your mind it gives you no greater land use authority than what you currently have, but it gets the money; it brings money to the table.

Mr. KINSEY. It does not in any way affect the land use authority that the county currently has; that's correct.

Mr. POMBO. Have you supported in the past the development? I think you said that your county was on 60 acres development, was the minimum. Have you supported those developments in the past?

Mr. KINSEY. As I mentioned, Mr. Pombo, this is the first application within the coastal ag zoning for a subdivision of a ranch. What I have done is to make it clear to our staff that we need to treat this application with all fairness, and as such, we are determining that that application is complete as of this week, and we will begin the environmental review process and the public hearings, and consideration of the project on its merits, as it applies to our current zoning.

Our zoning——

Mr. POMBO. Is this the first time that there has been an application to subdivide into 60-acre blocks within this area?

Mr. KINSEY. Within the coastal ag zoning this is—the areas within the Farmland Protection Act boundaries; this is the first subdivision that has been proposed.

What I would say is that, the zoning that we have is very strict. It's very clear that our intention is to support agriculture, and that agriculture is the primary intention that we choose to accomplish. So for a subdivision to be deemed appropriate it needs to show that

it's a secondary use to the primary use of agriculture. So there's no question—and I don't want to mislead anyone here to think that we have lax zoning that would allow for agriculture to slip away from us. But this legislation, should it be successful, will strengthen our hand, and more importantly, will provide individuals who choose to participate with the opportunity to stay on their lands, as opposed to feel compelled for personal reasons, financial hardship, to either sell the lands or attempt to subdivide the land in order to continue their lifestyle.

Mr. POMBO. I think you've established that the greatest need in this area is dollars, in purchasing the conservation easement on those lands; that it's not a lack of land use ability that the county has, but it's a lack of dollars, and that that is the primary motivation with legislation like this.

Is that correct or is that incorrect? Because if there's no land use authority included in this bill, if there's no restrictions that are included in this bill, if there's no way that we are in any way taking away any of your land use authority, or any of the property rights of the people involved—the property owners involved, then the only thing left in that scenario is the dollars.

Mr. KINSEY. I think that, while I would agree that the land use authority is maintained with Marin County, the value of this bill goes far beyond the economic benefit alone.

Mr. POMBO. Mr. Berner, if you want to respond to that. I'm very curious because I'm not—I'm not totally opposed to this idea because we have a program very similar to it in my own county. But the argument that is continually made is that, it's no new land use authority, and there's nothing there. And if that's the case, why do you need a Federal bill?

If it's just the dollars, then let's just say, OK, it's just the dollars, let's work on that. But if it's not that, tell me what it is.

Mr. BERNER. Well, I think the bill as it is written is very clear about that. All it does is authorize Federal funds to be used to purchase conservation easements in order to preserve the land for agriculture. As I tried to indicate my testimony——

Mr. POMBO. It's several pages, and I've reviewed the bill, and it's more than just an authorization. I've done authorization bills before, and you don't need several pages to just do an authorization bill.

Mr. BERNER. The problem in Marin County—and this is a problem that's shared in other agricultural communities adjacent to urban areas—is that land prices have risen far beyond any values based upon agricultural land. And while that in some senses is a windfall to the landowner, it also presents them with a host of problems. It makes it difficult to pass land from one generation to the next because of high estate taxes. It makes it difficult for a young farmer or rancher to buy land because it has to be paid for at market value by——

Mr. POMBO. Coming from a seventh generation farm family——

Mr. BERNER. OK. You know all this.

Mr. POMBO. [continuing] I'm very familiar with that.

Mr. BERNER. So, the solution that Marin county has tried to apply to this problem for the last 17 years, is to support a program which offers landowners an option. Instead of having to sell the

land, or consider dividing it, or developing it, they instead can sell a conservation easement. And in that way realize some of the capital value of the land without having to change what they're doing. We have spent some $17 million in the county over the last 15 years doing that. We will continue doing that, but the magnitude of the need is greater than the local funding is going to be able to meet. And because Point Reyes National Seashore is so importantly related to at least some of these agricultural lands, we are urging Congress to consider the idea of sharing with us the cost of offering this conservation option to agricultural landowners.

Mr. POMBO. Let me ask you a question—Do you have any questions——

Mr. GILCHREST. Um——

Mr. POMBO. Very quickly I'll ask one more question, then I'll yield to him.

Mr. HANSEN. Well, I thought he could yield to you if he didn't have any questions.

Mr. GILCHREST. I have one.

Mr. HANSEN. Well, why don't you take the floor——

Mr. GILCHREST. I'll take my time and——

Mr. HANSEN. [continuing] yield to Mr. Pombo, and then come back to your question.

Mr. GILCHREST. [continuing] yield—I'll yield to the gentleman from California, with a quick question.

Mr. HANSEN. That way, we'll use the time wisely.

Mr. POMBO. Thanks, Wayne.

Just one final question. If we came up with legislation that all it was was an authorization for a grant that would go into an organization—not necessarily yours, but an organization like yours—to purchase conservation easement for the protection of agriculture in this area, and gave no other authority whatsoever—that's all it did—would that accomplish what you want?

Mr. BERNER. Yes, sir. And I think that's all we think this bill does.

Mr. POMBO. No, there are a lot of concerns that this bill could go——

Mr. BERNER. I understand, but that is——

Mr. POMBO. [continunig] beyond that. That was the question. Thank the gentleman for yielding.

Mr. HANSEN. Gentleman from Maryland.

Mr. GILCHREST. I guess to some extent that was my question, and I'm from Maryland, and we have conservation easement program where we simply buy the development rights from a farmer, and then that farm stays in a permanent easement from now until the end of time. And it's an excellent program, except there's never quite enough money to do that. And there's more farmers that want to do it than there is a money available for that, and so we mixed the little Federal fund about year—I guess it's about a year ago. It's $35 million nationwide to be distributed to those states that have those kinds of programs.

And I guess I'd like maybe just a quick answer from especially the dairy rancher. Ma'am. I'm not sure where you are on this panel. But I guess if we could—whether it's Lynn's bill or somebody else's bill, the intent here is to help state, Federal, local govern-

ment, private landowners to preserve agricultural land in the United States. It's my understanding we lose about a million acres a year. In my small state of Maryland we lose 25,000 acres a year, and that's a lot for us.

So we're attempting to give money in cooperation with the state programs, to preserve agriculture, not to create natural parks or BLM land—and there's nothing wrong with those things—but to preserve agriculture.

Now, is there anybody on the panel that has some sense that this bill would preserve agriculture for a short period of time, and the likelihood that it would turn into a national park later because of this legislation?

Ms. DOUGHTY. No.

Mr. BERNER. No, sir.

Mr. KINSEY. No.

Mr. GILCHREST. I guess we should go vote, Mr. Chairman.

Mr. HANSEN. OK. Thank you very much. Just let me ask one other quicky here.

You've all talked about conservation easements. Do any of you envision or support park service acquisition of private property? Keep in mind that takes it off the tax rolls. Do any of you support that?

Mr. KINSEY. Well, I consider this bill to be primarily an easement acquisition program. I think that with willing landowner—a willing seller and a willing buyer on the part of the Federal Government, that on a merit basis you could consider certain plans. But I would strongly discourage that because of my interest in maintaining both the tax rolls and the active agriculture in our county.

Mr. HANSEN. Well, thank you very much. We appreciate the panel's comments.

We'll turn to our last panel; Martin and Sally Pozzi, Mary Coletti, Donna Furlong, and Judy Borello, please come forward, please.

Now, if you folks—I could ask you to wait just a minute, I'd really appreciate. We're going to have to go vote. And as soon as Lynn Woolsey gets back, the gentleman from the American Samoa will bang the gavel, and we're start again.

[Recess.]

Mr. FALEOMAVAEGA. The Committee will reconvene again. We'd like to call on our next panel, our final panel here.

Mr. Martin and Sally Pozzi; Ms. Mary Coletti; Ms. Donna Furlong; and Ms. Judy Borello. We would like to welcome you to the Committee, and would like to hear your testimony right now.

Mr. and Mrs. Pozzi.

STATEMENT OF MARTIN AND SALLY POZZI, RANCHERS

Mr. POZZI. Thank you. My name is Martin Pozzi. I'm a fifth generation rancher in the Sonoma Marin area. I have come to testify for this Committee, representing Cattlemen's Association and as a landowner. Ms. Woolsey, my Congresswoman, has introduced legislation which will make my ranch part of the Point Reyes National Seashore. When I first learned of this legislation she had intro-

duced it in the 103d Congress, without even telling the landowners, and was proposing to introduce it in the 104th.

As president of the Marin County Farm Bureau, by direction of board, I indicated that the legislation was unacceptable. The major concerns were, the park boundary, private property rights, and the lack of funding. After our meeting, Lynn sent a letter to all the landowners, stating that we had met, and that our concerns had been taken care of. She has made changes, but the main concerns still remain.

As Ms. Coletti will testify, we have letters from overwhelming from overwhelming majority of landowners, indicating opposition to their land being included it the Point Reyes National Seashore.

My family sold an agriculture conservation easement to the local Marin Agricultural Land Trust organization, that this legislation was modeled after. My eight siblings and father—all co-owners of this ranch—committed to limiting the uses of our ranch to agriculture.

The proceeds from MALT were used to purchase a neighboring ranch to expand our agricultural holdings, making room for my brother and myself to have agricultural operations. We support the use of voluntary conservation easements as a tool for the preservation of ag lands. Our ranch will never be developed. Now we will be penalized by having it become park land, which will jeopardize the one use we were trying to protect it for. This is instant creation of park without compensation.

The creation of the Point Reyes National Seashore and acquisition of land from the owners has happened in my lifetime. I have been aware of what has happened to most of the 27 original dairies and numerous ranching operations which are all now park land. Although the original legislation was supposed to protect landowners of more than 500 acres in active agriculture, not one is still privately owned.

Correspondence from the author, her staff, and her experts claim that the program is completely voluntary. The legislation states:

Section 3, "Addition of farmland protection areas to the Point Reyes National Seashore. a) Addition Section 2 of the Act entitled, an act to establish the Point Reyes National Seashore in the State of California, and for other purposes, is amended by adding at the end the following:

The Point Reyes National Seashore shall also include the farmland protection area." This is not voluntary.

The agriculture experts have openly stated that this will not preserve agriculture, and the largest agricultural organizations in the world are very distressed with a thinly veiled attempt to use agriculture for park expansion.

As Bob Vice, president of California Farm Bureau Federation wrote to her, "You do not preserve farm and ranch land by making it part of the park system." Our agriculture operations are more threatened by the expansion of park than by development.

I believe the public, your constituents, want to preserve agriculture land, and are reluctant to pay for expansion of park land. The opportunity to do what Ms. Woolsey describes as voluntary use of conservation easements to protect this agriculture land with willing landowners, can and should be accomplished. Increase fund-

ing in the Department of Agriculture's Conservation Easement Program so the use of voluntary easements can be accomplished. This is the department of our government with expertise in agriculture, and should be responsible for the easements, not the Department of Interior, which specializes in parks.

I have worked my whole life on my family's 1,200-acre ranch. We had a dairy until the late 1970's, and since have raise sheep and beef cattle. I supported my youngest siblings with my ranch operation, enabling them to attend college. All nine of us graduated. My wife and I have a 2-year old daughter, who spends time with us on the ranch, and loves it as much as we do. We have a 4-month old son, and we almost named him Park Pozzi, because this issue has taken up so much of our lives. My children are the sixth generation in my family to be in agriculture. I want to ensure that my children will be able to continue my agriculture heritage.

Ever since I was in third grade I knew I wanted to be a rancher. I worked hard toward that end goal, getting my college degree in animal science with a minor in business, and being active in agricultural organizations. Please do not include this land in a national park. Thank you for allowing me to be here.

[The prepared statement of Mr. Pozzi may be found at end of hearing.]

Mr. POMBO. [presiding] Thank you.

Ms. COLETTI. My turn?

Mr. POMBO. Yes.

STATEMENT OF MARY COLETTI, RANCHER

Ms. COLETTI. My name is Mary Coletti. My family has been ranching our land for five generations. This same land is being left in trust to our children, who plan to continue our ranching operation.

I have been to numerous meetings concerning this 38,000 acre park expansion bill. I have witnessed overwhelming landowner opposition, and, very little landowner support (as the map illustrates). In addition, opposition to this park expansion bill has been expressed by the farm groups and the taxpayers organizations.[1]

Opposition has been expressed by farm groups. American Farm Bureau Federation, California Farm Bureau Federation, California Cattlemen's Association, California Wool Growers Association (refer to letter dated 11/04/97), North Bay Wool Growers, Sonoma County Farm Bureau, Fresno County Farm Bureau, Kings County Farm Bureau. (refer to submitted letter)

Ms. Woolsey, you wrote December 5th; "As I made clear on our November 26th meeting, I will not proceed in Washington without the support of the landowners." And on the 22nd of December; "Let me assure you that Chairman Young gave me his word, and I have given the landowners my word that this bill will only move forward with local support." (Letters subitted for the record)

Somehow our concerns have not been heard so I helped form "Citizens for Protecting Farmland." Our purpose is to educate the public and our legislators as to the facts of this bill, and to reiterate our concerns and opposition to this bill. A packet was prepared, and I would like to enter this into the record now.

We are a group of landowners within the proposed park boundary, representing over 22,000 acres opposed to the bill. 5,700 addi-

tional acres have serious concerns, but are leery of speaking up; Plus we've just received two other letters in opposition to the bill.[2]

Since the publication of the packet, we recieved additional letters. 23,679.18 acres are opposed and 2,540.26 acres have major concerns for a total of 26,219.44. A letter from Margaret Nobmann, Luke and Josh Stevens are included. The charts have been updated and are included. Pages 9, 10, 10.1, 11, are included. Mr. Williamsen, 39, is deceased, his wife and children continue to be opposed to the bill.

Of the 38,000 acres, over 27,000 acres are protected from development from the Williamson Act. Over 11,500 acres are protected by the Marin County Agricultural Land Trust, MALT, and the Sonoma County Preservation Trust, SALT. More is protected by government ownership. (as maps illustrate)

Of the 38,000 acres, all development rights are protected by stringent local laws and zonings, which have been in effect for 25 years; 120 acres per dwelling in Sonoma; and 60 acres per dwelling in Marin. Marin County may be the only county to require mandatory conservation easements in order to build a dwelling. If protected by MALT, SALT, and the Williamson Act, the development rights are even more restrictive. (see map)

Because of all of the above, very few building permits have been issued over the past 10 to 15 years. further testimony that there is no push for development, nor a need for this bill. These are family farms that have been in operation since the 1800's.

H.R. 1135 and H.R. 1995 is not the first time that farmland has been included within the Point Reyes National Seashore park boundary. Farmers fought to save their land from becoming park land in the 1960's and 1970's, and now, none of that land is privately owned.[3]

Merv McDonald submitted testimony pointing out that some ranchers were forced out of the boundary and the land became part of the Pt. Reyes National Seashore. (Refer to the attached letter.)

Congresswoman Woolsey, if you're concerned about preserving farmland, as your title for your legislation implies, I would strongly encourage you, with Congress' help, to increase funding to the USDA Conservation Easement program and include our area as one to receive the funds to purchase easements in Sonoma and Marin Counties. This would allow funding for anyone that would like to sell their easements to their land without the expansion of the Point Reyes National Seashore park, and creating a "public/private" partnership or a "local/Federal" partnership. This would not place an involuntary park boundary over our land. We are the best stewards of our land. Keeping the agricultural easements under the Department of Agriculture, not the Department of Interior as part of a park, will help the farmers the most in the long-run as history has shown.

The large map illustrates the landowner opposition to this park expansion.[4] All the maps illustrate the lack of need for such a bill to prevent development. Please help my family, and the families of the other farmers who want to continue to ranch without being included within the Point Reyes National Seashore park boundary. Having a aprk boundary over our land is not voluntary and is a waste of the taxpayers' money. Thank you for hearing me.

Opposition has been expressed to Ms. Woolsey. The chart on page 10 lists landowners who submitted letters (pages 21-70) or signed petitions (pages 71-81). To our knowledge these landowners have not changed their position and are still opposed to this legislation.

[The prepared statement of Ms. Coletti may be found at end of hearing.]

[The information referred to may be found at end of hearing.]

Mr. POMBO. Thank you very much.

Ms. Furlong.

STATEMENT OF DONNA FURLONG, RANCHER

Ms. FURLONG. Good afternoon, gentlemen. My name is Donna Furlong, and I've been ranching for most of my adult life. After my husband passed away 14 years ago, I continued the family business of raising beef, cattle, and sheep because I wanted to pass the family tradition on to my four sons and my grandchildren.

I am here today as a landowner who will be affected, and also as a representative of the California Wool Growers Association. You all received a letter from the California Wool Growers. I would like to read an excerpt of that letter.

"The California Wool Growers Association opposes H.R. 1135 and H.R. 1995, which expands the Point Reyes National Seashore. Both of the respective bills are misleading in title and summary. While the author claims to be giving the Secretary of Agriculture the authority and appropriations for farmland conservation easements, it is clear that this is nothing more than a park expansion bill. And while the author insists that the bill is intended to preserve farmland, it does nothing more than create public access, where there's now private farmland, at the expense of taxpayers, local farmers, and ranchers."

Most of the people I know want to preserve this farmland for future generations. They do not disagree with conservation easement, but do not want to be included within a park boundary. This has been touted as buffer zone for the park. The bay is already a natural buffer zone. Park land means public access, and public access means lots of headaches for a rancher.

This bill in the beginning offered assurances that no public trails could be put through the properties involved. This was taken out. This is a grave concern of mine. The general public will not honor a fence, and once they enter your property, even though they have no right whatsoever to be there, they want you to be responsible for their actions. What if my bull doesn't like their looks?

My main concern is funding. This bill is on a matching-fund basis. Marin County does not have sales tax to fund open space and conservation easement. Marin County taxpayers voted down Measure A last November, which would have provided the Marin Agricultural Land Trust with money to fund conservation easements. The voters of California turned down Cal Paw 1994 which would have provided the Marin Agricultural Land Trust with money. The voters have said they do not want to fund more park land, so where will Marin County get the matching fund? The only matching fund Marin County has is around $15 million. Fifteen million dollars is not enough to purchase conservation easements within this boundary.

Before such a bill is ever considered, there should be enough funds available for just compensation for all properties within the area. You should not put a boundary around land, and then decide what just compensation is, and where the money will come from. A licensed appraiser has told me that being in a park boundary cannot help but lower your property value.

Most people in agriculture want to continue, but it has to be viable. If you are truly interested in saving ag, help us with the bottom line, but don't put a boundary around it. If I put an easement on my property, and you allow predators to run amok as they do in the park, and I can no longer raise livestock, what do I do? Sit and look at my beautiful view of the ocean, or sell out at a very reduced price? I feel that this bill takes away my property rights with out just compensation. My property rights have already been infringed on by the Coastal Commission, the Planning Department, and the Gulf of Farallones National Marin Sanctuary. Don't add another layer of regulation. I would urge you please not to consider this bill. Thank you.

[The prepared statement of Ms. Furlong may be found at end of hearing.]

Mr. FALEOMAVAEGA. Thank you very much. Ms. Borello.

STATEMENT OF JUDY BORELLO, RANCHER

Ms. BORELLO. My name is Judy Borello, and I own a 864-acre ranch within the proposed Farmland Protection Act. My reasons for opposing this bill are as follows:

When Ms. Woolsey, by the way, got up here today and said that the people—the ranchers for her bill within the zone are more in the majority to support the bill—it's totally wrong and bogus. Two-thirds of the ranchers within the proposed boundary do not want the supposed protection that her bill recommends. And the proof—you can always talk to Martin Pozzi, who's past president of the Farm Bureau, because there were signed letters, signed signatures; two-thirds of the majority of the ranchers within the zone are opposed to the bill.

In 1972 we could build a house on every 2 acres, then we ranchers were rezoned one house every 60 acres; a devaluation of 30 times of our property value. Right after the great devaluation took place, 95 percent of the ranchers joined a state program called Williamson Act. For a substantial reduction in taxes the ranchers opted to not develop their ranches, leaving their land in open space for the next 10 years. But the program automatically self renews itself every day for 10 years. So, every day you're being renewed for 10 years, and so far I haven't known any rancher that's pulled out of Williamson Act, so there's a real layer of protection right there.

On top of these two layers or protection, 40 percent of the 38,000 acres within the proposed boundary has been purchased by the Marin Agricultural Land Trust, which is referred to as MALT. This means that, even though the development rights cannot be used under Williamson Act—in other words they're kind of in a neutered position—they are now permanently extinguished under the rights to purchase a MALT easement.

To add to all of this already protection of the land on the east shore of Tomales Bay, which is the land in question on this bill, is a very scarce amount of water, due to the fact that our land is geologically referred to as Franciscan formation, which is known for its low bearing and inadequate for water bearing supplies. There are like scarce pockets of the water in different places, but it basically isn't an abundantly watered piece of land. Reference to USGS Water Supply Paper 1427, Geology and Groundwater in Sonoma and Marin Counties is where you can find this information.

Summing all of this up and based on a logical conclusion, do we need to spend the hard-earned tax dollar of the American people to purchase what is already protected? There is 80,000 acres of park land already purchased, and can't be fully maintained because of the lack of funding. So why purchase more? In fact, over 50 percent of our Marin County is off the private tax rolls, and these are in state, Federal, or county park or open spaced districts.

My ranch is being lethally affected by this bill because, my late husband, Robert Borello, who met an untimely death due a car accident in October 1992, was the past president of the Farm Bureau, and one of the longest serving directors in past history. He was a staunch believer in retaining agricultural land values and property rights. He opted not to put Borello Ranch under Williamson Act, believing that if you take the government carrot, you get the government noose. He kept his development right intact by paying full taxes, developed a thriving rock quarry, septic ponds for the West Marin County community, and parts of Sonoma County. He developed large dams on the property, one of which is 40-acre foot dam, and spring fed, never losing half of its capacity. His hard work, foresight, and determination created these assets, and now with this Farmland Protection Act on a seemingly not-well-hidden park bill, I stand to lose a lot as well as my neighbors.

The quarry has been idle since Robert's death. Three quarry outfits have wanted to lease it, but when faced with the pending park bill, have backed off, watching to see what happens. On November 17th the quarry will be reviewed by the Board on Mining, and there's a chance the quarry could be closed permanently because idle position is granted for only so long of a time.

Due to this 5-year fracas over this park bill—let alone if it passed—I stand to lose a substantial amount of money while it also clouds the title to sell my ranch to the private sector. I believe that my fellow ranchers and myself deserve a lot better from this. I would like to see agriculture easements available to ranchers, but not at the expense of forcing the many into while a few gain a deal. It's very funny to me that the agriculturalists, the ranchers themselves, including the ag experts in this deal say, they don't want it, it's not protecting them, when in fact it weakens them. But the politically non-savvy, non-agriculturally knowledgeable people, will tell the rancher what's right for him, and force it upon him, while portraying to the public how they saved agriculture.

I know that the Democrats and Republicans have come together over fiscal responsibility issues, and I hope that this Committee will see the wisdom of not wasting taxpayers' money on this faulty bill. Perhaps if this bill guaranteed the rancher the right to be fully

compensated for his land as in the original park bill, it would have a chance; but not this forced boundary with limited compensation.

Thank you for allowing me time to speak on this issue. P.S. Many politicians and environmentalists lust after our privately owned land. They refer to it as their sacred viewshed. Don't try to take it from us with this cheap shot Farm Land Protection Act bill; after all, I believe there is still a commandment that says Thou shall not steal. Thank you.

[The prepared statement of Ms. Borello may be found at end of hearing.]

Mr. POMBO. Thank you. Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Mr. Chairman, I'd like to defer to the gentlelady from California.

Ms. WOOLSEY. Thank you very much.

Mr. Chairman, I understand that after this vote, we're going to have six in a row, so let's try to do this, and then we can let everybody out of this room.

First of all, I want you to know, all of you up here as witnesses, thank you for coming. I cannot wait until the day we sit down, realize the misinformation that's been kicked around, and realize the benefits of still being in agriculture and at the same time your neighbors have the benefit of volunteering into these easements if they want them. I look forward to that. I think it's going to happen. I wouldn't be doing this if I didn't think it could happen.

But, you know, there's a lot of confusion. There's something that confuses me, Judy, about your testimony. I know after our sitting and talking you worry about the value of your quarry. In response to this concern, this bill includes language, language actually that Representative Pombo questioned. It's on page 5, line 13 of the bill.

Ms. BORELLO. Lynn, can I say something here?

Ms. WOOLSEY. No, no, let me finish, please.

Ms. BORELLO. To answer you.

Ms. WOOLSEY. Well, I will let you. But I want to make sure you know that this bill makes it possible for you and others to negotiate voluntarily for in-fee purchase of your land. And that was so that you could be fully compensated for that land.

So my question to you, how could you be against this bill, when actually your major concern is answered in the bill?

Ms. BORELLO. OK, I will answer you. First of all, when this bill first started, Gary Giacomini was our supervisor. He was going to get $70 or $80 million worth of seed money here to try to take care of everybody. I was at that time told by Gary, who was friends with my late husband, that my ranch would come out in fee, because it is the only real deal. It isn't in Williamson Act. It has development rights.

Ms. WOOLSEY. Well, you could put it in.

Ms. BORELLO. OK. It has a quarry. It's very diverse from the other ranches, all right?

Ms. WOOLSEY. OK, I'm going——

Ms. BORELLO. But let me finish——

Ms. WOOLSEY. No, wait a minute. I need to take——

Ms. BORELLO. So then I count on the facts——

Ms. WOOLSEY. No, excuse me, Judy.

Ms. BORELLO. [continuing] that I'm going to be bought out in fee, and all of a sudden at the April meeting with you——

Mr. POMBO. The gentlewoman from California controls the time, and we're trying to keep this——

Ms. WOOLSEY. Yes. Judy, let me respond.

Mr. POMBO. [continuing] I'm trying to keep this as good as we can.

Ms. BORELLO. Well, I need to answer her question.

Ms. WOOLSEY. No, Judy, what you need to know——

Ms. BORELLO. At that meeting you guys dumped me, but in the meantime the bill wasn't taking care of other people either.

Mr. POMBO. Please, let's try to keep this as calm as we can. I will give you ample opportunity to respond. If there is not time in the hearing, I will give you the opportunity to respond in writing, and your entire testimony will be included in the record at this point.

Ms. Woolsey.

Ms. WOOLSEY. Thank you very much, Mr. Pombo.

And Judy, it's not that I'm cutting you off. I've got a lot of questions. And my point is, we did answer your concern in the bill. So we'll go from there to more misinformation.

The point keeps being made by those at the table that the landowners in the pastoral zone at the Point Reyes National Seashore ended up having their land purchased. They came to the Congress and asked if they could be bought out. That is why it happened. They came to the Congress and asked, because the original bill prohibited purchase of their land, and that request was honored. So please, we don't need that misinformation.

There is also misinformation about whether or not the majority of the landowners support this bill. Believe me, I sat with them, one-on-one; the majority does. The Citizens for Protecting Farmlands report has people listed that have sent me letters just recently, supporting the bill. You have a deceased person on that list. You have people registered both as property owners, and they're counted twice. You're double-counting people.

So, all I can tell you, is that that's——

Ms. BORELLO. Could you supply us with signatures——

Ms. WOOLSEY. [continuing] misinformation.

Ms. BORELLO. [continuing] of people that are for your bill——

Mr. POMBO. Is that a question?

Ms. WOOLSEY. No, my question is—now, I want to go on beyond that. I want to talk about the letter of misinformation that came from the Woolgrowers. Actually an example of the misinformation—my point is proved in what you said, Donna. You say that—you're quoting them, "While the author claims to be giving the Secretary of Agriculture the authority . . ." It shows how little they know about this bill. It's the Secretary of Interior that we're dealing with.

People have not paid any attention to this bill. The information that came from the cattlemen, full paragraph, talking about letting people on the land for viewing, public access, no hunting. None of that—all of that is protected for you in the bill; absolutely.

How are we ever going to get together when I keep hearing misinformation. You refuse to hear what's really in the bill. Once you do, and then I think we deal with it actually.

Now, Martin and Sally, I have a question.

I understand that you sold your conservation easements on your land.

Mr. POZZI. Correct.

Ms. WOOLSEY. And that has worked well for your family, I believe.

Mr. POZZI. Correct.

Ms. WOOLSEY. I think you need to know a story that I heard when I was going around talking to the neighbors and the farmers.

Two different farmers that I talked to—landowners who have MALTED easements on their land, told me point blank—and now I'm telling you they told me this. They told me that they did not like my bill because if their neighbor needed to sell they did not want to have to compete with fair market value. They didn't want to compete with H.R. 1995; they wanted to buy their neighbor out cheap.

Is that fair?

Martin?

Mr. POZZI. I can't tell you about cheap because the appraisals——

Ms. WOOLSEY. Well they want to go below the appraisal, they tell me.

Mrs. POZZI. We are in favor of the use of voluntary conservation easements for the preservation of agricultural lands. We are opposed to our land becoming part of a park. We have sold our development right, and we didn't ask that anyone else have their land be included in a national park or have any other limitation in order for our land to have the conservation easement. There are conservation easement programs available, and we request that you use those, instead of including all of our land in a park, and you expand on the funding in the program that's available, instead of causing this limitation on our land. We want to continue an active agricultural production—a productive agriculture.

Ms. WOOLSEY. Well, I'm with you. We're definitely together on that.

Mr. POMBO. I'm going to have to cut you off.

Ms. WOOLSEY. And I've used up all my time.

Mr. Chairman, thank you.

Mr. POMBO. I'm going to have to cut you off. And I've got to apologize to this panel. We have a series of six or seven votes, which means we're going to be over there for about 2 hours, and I'm not going to make you stay here for the 2 hours.

I will tell you that there are questions that I have, that Mr. Faleomavaega had, and that Mr. Hansen, the chairman of the Subcommittee, had for this panel. Those will be submitted to you in writing.

I will encourage each of you, if you have further statements that you would like to have included as part of the official record, to do that, and I will hold the record open on this hearing for 10 days, to give you an opportunity to have all of your information included in the official record of this hearing. But unfortunately because of the voting schedule, I'm going to have to adjourn the hearing. And again, I apologize to all of you for the long wait in the abbreviated hearing. But thank you very much for coming.

Ms. BORELLO. Thank you for hearing us out.

Mr. POMBO. The hearing is adjourned.

[Whereupon, at 3:40 p.m., the Committee was adjourned subject to the call of the Chair.]

[Additional material submitted for the record follows.]

STATEMENT OF KATHERINE H. STEVENSON, ASSOCIATE DIRECTOR FOR CULTURAL RESOURCE STEWARDSHIP AND PARTNERSHIPS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS OF THE COMMITTEE ON RESOURCES CONCERNING H.R. 2438, A BILL ON RAILROAD RIGHTS-OF-WAY.

October 30, 1997

Mr. Chairman, thank you for the opportunity to appear before your committee to present the Department's views on H.R. 2438, a bill to encourage the establishment of appropriate trails on abandoned railroad rights-of-way, while ensuring the protection of certain reversionary property rights.

We strongly oppose H.R. 2438. This bill would effectively eliminate the railbanking provision in Section 8(d) of the National Trails System Act (NTSA). Although H.R. 2438 would amend Section 8(d) purportedly to further the national policy to preserve established railroad rights-of-way for possible future use as a source of transportation, the proposed amendments would preclude railroads from entering into agreements for interim trail use of a railroad right-of-way where state law provides for the reversion of abandoned rights-of-way to the adjacent landowners. Enactment of this legislation would impede the preservation of these corridors for future transportation needs, as well as hinder the creation of new trails and new trail systems in the interim.

In 1983 Congress recognized the continuing need to preserve rail transportation corridors and the demand for trails by amending the NTSA to include a "railbanking" clause. In addressing the use of trails, the law states, "...such interim use shall not be treated...as an abandonment of the use of

such rights-of-way for railroad purposes." This amendment enabled interested citizen groups and state and local agencies to preserve corridors and, in the interim, use them as public trails.

Railbanking, as outlined in Section 8(d) of the NTSA, is defined as a voluntary agreement reached between a railroad and a trail manager to dedicate a rail corridor that is no longer in service to interim trail use. Railbanking is entirely voluntary on the part of both the railroad and the local community. The railbanking statute gives these two groups the power to decide whether to railbank a corridor.

Authority for the National Park Service (NPS) to assist with railbanking comes from Section 8(d) of the NTSA. The Act states that the Secretary of the Interior should encourage state and local groups to develop trails on abandoned railroad rights-of-way in order to protect and keep these transportation corridors intact in case they are needed for rail service in the future.

Since enactment of Section 8(d), the Department of Interior has had the lead in notifying state and local governments and other interested parties on abandoned railroad rights-of-way for use as trails. The NPS has been the lead agency responsible for carrying out the Secretary's mandate.

When a railroad abandons a line, it must notify government agencies and affected local communities. Each year NPS receives about 150 notices of impending abandonments from railroads (averaging approximately 2,500 miles a year). The NPS, in turn, notifies the affected communities about the impending abandonment and the opportunity to take advantage of

railbanking and to possibly convert the corridor into a public trail. Since 1988, the NPS has worked with the Interstate Commerce Commission (now Surface Transportation Board) to ensure that the notifications of abandonment are disseminated in a timely fashion.

In 1995 the NPS developed an Early Warning System (EWS) with the Rails-to-Trails Conservancy to improve the notification process of rail abandonments. Through the EWS, numerous community leaders and local agency officials are notified about abandonments and their potential for conversion to trail use. Included in this notification is information on how railbanking can be used to help secure the corridor for trail use. In the EWS's first year (October 1995 - October 1996), 118 rail corridors totaling 1,673 miles were proposed for abandonment by railroads. Communities requested railbanking on 34 of those corridors, totaling 730 miles.

In addition to direct notification through the EWS, the NPS has been working to educate the public on the federal railbanking statute, explaining how it can be used to save about-to-be abandoned rail corridors. Some of NPS's educational activities include:

1) **Rails-to-Trails Seminar Series:** In 1989 and 1990 NPS, in cooperation with the Rails-to-Trails Conservancy (RTC) sponsored a series of twenty-three, one-day seminars in cities around the country designed to explain the federal railbanking statute and the concept of rail-trails to citizens and local or state agency officials. With an average of 35 people attending each seminar, 805 people were trained.

2) **The Secrets of Successful Rail-Trails:** In 1993 the NPS helped RTC publish *The*

Secrets of Successful Rail-Trails, a third edition of a citizen's "how-to" book on developing rail-trails, which provides information on railbanking. This book captures the information taught in the seminar series in book form, thereby making it more accessible to the growing number of people interested in developing rail-trails. Since 1993 more than 2,000 copies of the book have been distributed.

3) The Impacts of Rail-Trails: In 1992 the NPS worked with researchers at Penn State University to publish The Impacts of Rail-Trails, a study documenting the benefits and impacts of rail-trails by examining both trail users and nearby property owners. In the September 21, 1992 edition, the *Wall Street Journal* reviewed the study saying it was a trump card for trail groups because the study clearly and scientifically explained how communities benefitted from building trails. The NPS has distributed 3,000 copies of the full-length study and approximately 3,000 copies of the Executive Summary.

4) Negotiations Symposium: In 1994, working in cooperation with RTC, the NPS convened a symposium on rail-trails negotiations. For the first time, the symposium brought together railroad industry executives, Interstate Commerce Commission officials and state trail personnel to discuss the best practices in rail-trail negotiations. A session of the two-day meeting centered on railbanking and how both railroads and trail groups can benefit from railbanking. In August 1996, RTC published *Acquiring Corridors*, a negotiations handbook that was inspired by the symposium.

Railbanking was established because Congress, in the wake of the restructuring of the railroad industry in the 1970s, was concerned that the potential loss of transportation corridors would

ultimately be a detriment to the nation's transportation infrastructure. Once lost, these transportation corridors would be difficult and costly to reassemble. By allowing communities the opportunity to railbank these valuable corridors, and in the meantime reap the benefits of allowing them to be converted to interim trail use, Congress hoped to keep the corridors intact in case rail service became feasible in the future.

As Congress envisioned in 1983 with the passage of Section 8(d), railbanking has become an effective tool to preserve valuable transportation corridors. While only 15% of the nation's 9,000 miles of rail-trails have been built on railbanked corridors, railbanking has been instrumental in the development of several of the nation's premier trails, such as the Youghiogheny River Trail in Ohiopyle State Park in western Pennsylvania, the Capital Crescent Trail in Washington DC, and the Minuteman Trail in Boston, Massachusetts. Without railbanking, these trails and the opportunity to convert them back to rail service would not exist today.

Communities that have decided to railbank a corridor do so for several reasons. Many communities, especially in rural areas, are dependent upon the shipment of goods to retain and attract businesses and consider their rail corridors their economic lifeline. Many communities are motivated to pursue railbanking in order to keep the corridor intact in hopes that they can attract another railroad, and in the meantime, reap tourism dollars by turning the corridor into a multi-use trail.

Many communities, especially in urban areas, need to reduce pollution from vehicles in accordance with federal regulations. A trail built on a railbanked corridor offers a community a way to add to the transportation infrastructure and to add trips without increasing vehicle emission. Studies have shown that one-third of weekday riders on urban trails use trails for transportation purposes.

If H.R. 2438 is enacted, creation of new trails and new trails systems would be severely hampered. This legislation would reverse over twenty years of federal policy that encourages trail development.

Railbanking has been in place for over ten years. It has successfully led to the development of 45 trails totaling 1,238 miles in over 20 states. Furthermore, 66 projects on railbanked corridors are in the works, soon adding another 1,900 miles of trail in every area of the country. Railbanking has been successful because it is a locally-driven effort. The decision to railbank is entirely voluntary and made at the local level. The railbanking statute offers communities the opportunity to save and reuse a potentially valuable right-of-way for the public good. Passage of H.R. 2438 would decrease the opportunity to preserve these corridors in the interim as trails and thereby decrease their viability for future transportation use. In fact, in some cases, a railroad corridor may be lost entirely.

Mr. Chairman, this concludes my prepared remarks. I would be happy to answer any questions you may have.

STATEMENT OF KATHERINE H. STEVENSON, ASSOCIATE DIRECTOR FOR CULTURAL RESOURCES, STEWARDSHIP AND PARTNERSHIPS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS, COMMITTEE ON RESOURCES, CONCERNING H.R. 1995, TO PROVIDE FOR THE PROTECTION OF FARMLAND AT THE POINT REYES NATIONAL SEASHORE.

October 30, 1997

Mr. Chairman and members of the subcommittee, thank you for the opportunity to provide the views of the Department of the Interior on H.R. 1995, a bill to protect the agricultural lands adjacent to Point Reyes National Seashore.

The department strongly supports H.R. 1995 and we urge its early enactment.

On Earth Day, 1996, President Clinton announced his Parks for Tomorrow initiative -- a plan to restore and preserve America's national parks. As part of that initiative, he stated his support for efforts to expand the boundary of Point Reyes National Seashore by protecting 38,000 acres in the viewshed of the park across Tomales and Bodega Bays. The president directed Secretary Babbitt to work with Congress to prepare and pass legislation to accomplish this. H.R. 1995, introduced by Rep. Woolsey, is the result of this work, and we commend the congresswoman for her dedication to this important effort.

This bill has five important components: 1) to preserve the long-term productive agriculture in the region; 2) to furnish essential watershed protection of Tomales and Bodega Estuaries; 3) to maintain the land primarily in private ownership; 4) to create a model public/private partnership; and 5) to protect the significant public investment in Point Reyes National Seashore.

This legislation proposes an innovative and cost-effective method to protect 38,000 acres of coastal agricultural landscape adjacent to Point Reyes National Seashore. Protection of this relatively undeveloped landscape primarily would be accomplished through acquisition of development rights and conservation easements from willing landowners. With conservation

easements, land would remain in private ownership, would be protected from incompatible development, and would contribute to the local economy and tax base.

Preserving the undeveloped lands in the farmland protection area is integral to protecting park values and the long-term health of the Tomales and Bodega Bays. The compatible pastoral setting of the eastern side of Tomales and Bodega Bays is, unquestionably, in jeopardy. Growth throughout Marin County is high. Open pastures and ranches are being sold and segmented for various types of development. Major land-use changes on the lands forming the eastern slope of Tomales Bay will directly and negatively impact public enjoyment of Point Reyes National Seashore and place significant stress on the Tomales and Bodega Bay ecosystems.

A private non-profit group, the Marin Agricultural Land Trust (MALT), has made significant headway in protecting the rural setting of these critical watershed lands of Tomales and Bodega Bays. The 13-year-old group has already purchased conservation easements on 11,000 acres within this proposed 38,000-acre farmland protection zone. Because of MALT's efforts, the acquisition of these easements by the federal government will not be needed. Similarly, the Sonoma Land Trust has begun purchase of several properties in the northern part of the protection area. These local efforts have already contributed close to $15 million to achieve the overall goals of the bill. H.R. 1995 will authorize the federal contribution to this partnership effort to complete the overall protection of the farmland protection area.

It is encouraging to have many grassroots organizations, such as MALT, the Sonoma Land Trust, the West Marin Chamber of Commerce, and many other groups, working with the National Park Service to protect park values and open space. This is in keeping with our emphasis on partnerships in the protection of significant resources. We look forward to nurturing these relationships to achieve mutual objectives.

H.R. 1995 has received bipartisan support and the endorsement of many groups including the Marin County Board of Supervisors, the Sonoma County Board of Supervisors, the American

Farmland Trust, the Inverness Association, the West Marin Environmental Action Committee, and the West Marin Chamber of Commerce.

The National Park Services believes the time is now to support this innovate partnership effort to purchase conservation easements. Development proposals, including two major residential developments, currently are threatening the farmland protection area; others are being proposed.

If H.R. 1995 were enacted, funding for easement acquisition would be contingent upon federal budgetary constraints and Administration funding priorities.

This concludes my statement. I would be pleased to answer any questions.

STATEMENT OF EVELYN KITAY

SENIOR TRIAL ATTORNEY

OFFICE OF THE GENERAL COUNSEL

SURFACE TRANSPORTATION BOARD

OCTOBER 30, 1997

BEFORE THE HOUSE COMMITTEE ON RESOURCES

SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS

INTRODUCTION

I am Evelyn Kitay, Senior Trial Attorney in the Office of the General Counsel at the Surface Transportation Board (Board). [1] I have been involved in a number of judicial proceedings relating to the implementation of the National Trails System Act (Trails Act), as amended in 1983, by the Board and its predecessor agency, the ICC. Accordingly, in accordance with the request of the Subcommittee, I am here to testify regarding the role of the Board in implementing the Trails Act and to present views on H.R. 2438, "Railway Abandonment Clarification Act."

OVERVIEW OF THE TRAILS ACT

The Trails Act gives interested parties the opportunity to negotiate voluntary agreements to use, for recreational trails, railroad rights-of-way that otherwise would be abandoned. The Act

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[1] As the Subcommittee may recall, the ICC Termination Act of 1995 (ICCTA) abolished the Interstate Commerce Commission (ICC), established the Board as the smaller successor to the ICC, and transferred certain functions to the Board. The rail abandonment and Trails Act functions at issue here, which were formerly performed by the ICC, are vested in the Board by virtue of 49 U.S.C. 10903 and 10502, as reenacted by the ICCTA, and 16 U.S.C. 1247(d). See ICCTA, sections 204(e), 205.

s intended to preserve railroad rights-of-way for future use, which is called "rail banking." Many railroads do not own the land on which their track lies. Rather, they have easements over the land of adjoining property owners. Unless those easements are rail-banked by converting them to a trail, they are extinguished, and the land reverts to the adjoining property owners, when the Board authorizes the abandonment of the line and the abandonment authority is exercised. Some rights-of-way which were made into trails have been reactivated as rail lines.[2]

THE BOARD'S SPECIFIC PROCEDURES

To begin the trail use process, a trail proponent must file a formal request in an actual abandonment docket. That is, the process cannot begin until a railroad has filed an abandonment request with the Board. A trail use request has no effect on the Board's decision as to whether to give a railroad permission to abandon the line. It is considered only after the Board has decided to permit the abandonment.

The formal trail use request must include a statement of willingness to assume financial responsibility for the property if an agreement is reached with the railroad for trail use. The trail use proponent must explicitly agree to assume responsibility for paying taxes on the right-of-way and for any liability in connection with the trail use.

When the Board has decided that an abandonment will be permitted on a particular line

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[2] The Board is aware of two cases in which rail service has been restored to lines previously converted to trail. The first involved a small part of a former Iowa Southern right-of-way (350 feet in Council Bluffs, IA) converted to trail use in Iowa Power, Inc. - Construction Exemption - Council Bluffs, IA., 8 I.C.C.2d 858 (1990). The second involved a 9.1- mile former Norfolk and Western right-of-way in Auglaize County, OH. See Norfolk and Western Ry. Co. - Abandonment Between St. Marys and Minister in Auglaize Co., OH, 9 I.C.C.2d 1015 (1993).

and a trail use request has been received regarding that line, the railroad must notify the Board whether it is willing to negotiate a trail use agreement. If the railroad declines to negotiate, the abandonment will proceed as if no trail use request was ever filed. On the other hand, if the railroad agrees to negotiate, and no offer of financial assistance to continue rail service on the line is received, the Board will impose a trail condition, which gives the trail use proponent 180 days to negotiate a trail use agreement with the railroad. The Board will often grant an extension of that period at the request of both the railroad and the trail use proponent.

The Board has no involvement in the negotiations between the railroad and the trail use proponent. It does not analyze, approve, or set the terms of trail use agreements. If a trail use agreement is reached, the parties may implement it without further Board action. If no trail use agreement is reached, the trail condition expires and the line may be fully abandoned.

The Board is not authorized to regulate activities over the actual trail. For example, the Board does not set rules for the trail; safety and use of the trail are governed by the local law. The Trails Act preempts only State or local laws regarding reversionary property interests in the right-of-way by explicitly providing that there "shall" be no abandonment, and hence no reversion, during the period of interim trail use.

Finally, the Board has no authority to deny the trail use request if the statute has been properly invoked, the two statutory requirements regarding management and rail banking have been met, and the railroad has consented to negotiate with the trail proponent. In short, the Board's jurisdiction is ministerial, i.e., the Board cannot decide on whether or not rail banking or trail use is desirable.

EFFECT OF H.R. 2438

H.R. 2428, if enacted, would dramatically alter the Board's ministerial role under the Trails Act. As my testimony has indicated, under the current statute the Board must impose a rail condition permitting interim trail use on a rail line approved for abandonment whenever the statutory criteria are met. The Board has no discretionary decision-making authority in this area and no substantive authority other than to carry out the essentially automatic provisions of the Trails Act. Furthermore, the Board is not authorized to regulate a trail and its use.

Under H.R. 2438, however, the Board's ability to impose a trail condition would become discretionary. That is, the Board would be required to seek to determine if trail use is appropriate in a particular case. Requiring the Board to approve and oversee particular trails in this manner would be beyond the Board's primary mission, which is to oversee the economic regulation of railroads, motor carriers, pipelines and non-contiguous domestic water trade. The Board has no particular expertise or knowledge concerning recreational trails. Congress only gave the agency a part to play in the formation of trails because of the "rail-banking" element of the Trails Act. Furthermore, the Board has limited resources following the termination of its predecessor agency, the ICC: it currently has roughly 130 employees to handle approximately 500 pending cases. The Board lacks the staff that would be required to approve and oversee individual trail use requests. In short, involving the Board in trail use approvals would be neither consistent with its mandate nor feasible given its existing resources and expertise.

With respect to the specific provisions of H.R. 2438, the bill raises the following additional concerns:

1. The bill could result in a delay in the exercise of a railroad's right to abandon lines that

are no longer needed for current rail service until the Trails Act process under the legislation -- that is, the process for determining whether to provide for a trail or not -- is completed. This result would be counter to the mandate of the law that the Board now implements, which is to facilitate and expedite the abandonment of rail lines which the Board has found to be a burden on interstate commerce.

2. The bill provides no legal standards by which the Board is to exercise the discretion the Board would be given with respect to the granting of trail authority. This lack of legal guidance could create inconsistency in the granting of trail use and vulnerability with respect to likely judicial appeals of many trail use conditions.

3. The bill raises the possibility of having to do an environmental review under the National Environmental Policy Act in every case in which a trail proposal is made, because the exercise of discretion regarding trail authority would likely be considered a major Federal action requiring such review. Such a requirement would impose additional burdens on the already strained resources of the Board.

4. The bill creates confusion within the provision eliminating federal preemption, specifically by appearing to give the vesting of any reversionary property interests pursuant to State law priority over the creation of any trail and rail banking. This provision seems to render the entire exercise of the Board's discretion with regard to trails use a nullity.

CLOSING

In summary, the role that the Board plays under the Trails Act is not intended to promote a position on the issue of the conflict between reversionary property rights and trails. The Board's existing responsibilities with respect to trails are ministerial and do not, and are not

ıtended to, resolve this conflict from a policy perspective. However, the proposed bill appears › impose a burdensome regulatory responsibility on the Board to determine whether a trail hould be created that could be rendered a nullity in many cases by the operation of State law ;iving effect to reversionary property rights. This exercise, which is not consistent the Board's rimary mission, would be time consuming, and a strain on its already limited resources, and ould ultimately be a fruitless effort by the Board.

I appreciate the opportunity to present these views, and I would be happy to answer any ıuestions that you might have.

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TESTIMONY OF

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REGARDING H.R. 2438, "THE RAILWAY ABANDONMENT CLARIFICATION ACT"

BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS, AND LANDS
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

OCTOBER 30, 1997

Thank you, Members of the Subcommittee, for inviting me to speak with you on this important legislation. It is always a privilege to participate in the nation's legislative process, and I am pleased to offer my thoughts on H.R. 2438. I will do so in a spirit of support for the Bill's worthy objectives and in the hope that my observations will be helpful.

H.R. 2438 addresses a subject that is in great need of congressional attention. I congratulate Representative Ryun for his leadership on this issue, and I congratulate this subcommittee for recognizing that this Bill deserves its careful attention. We have had a number of years of experience with the Rails-to-Trails Act. The public purposes of this Act remain as they were when Congress enacted the legislation nearly 15 years ago. However, our experience with the operation of the Act has identified unforeseen consequences for landowners and the public and has revealed serious flaws in the Act's implementation. The Bill before us is aimed at correcting flaws without prejudice to the objectives of the present law. In so doing, H.R. 2438 will help protect the fundamental rights of homeowners, farmers and others whose land is proposed for trail use.

THE PERSPECTIVE ACROSS THE RIGHT-OF-WAY

Before addressing the specific impact of H.R. 2438, I wish to focus the committee's attention on two distinct perspectives. For too long Rails-to-Trails policy makers have seen only the view *down* a railroad corridor and have envisioned a scenic recreational trail. So focused has been their gaze that they have not stopped for a moment by the fence line, where they could have seen an equally beautiful and compelling view *across* the right-of-way. Thus they have been blind to a critical perspective that the landowners see every day. That blindness, I believe, has created misconceptions of both facts and law. Those misconceptions in turn have generated a policy

framework and administrative enforcement that are decidedly unfair to some of the persons who are most affected by the present law. A balancing of the interests of both those who look down the corridor and those who look across the corridor is needed.

I have the privilege of representing individually and in class actions tens of thousands of landowners, homeowners, families, retirees, small businesses, farm organizations, and others in states all across our nation. Like the author of H.R. 2438, many of my clients enjoy the outdoors and know the benefits of recreational trails. Many also are conservationists.

What distinguishes my clients from others is that they *own* the land on which railroads once operated their trains, and upon which trails are now operating or proposed. Most of my clients also own land alongside the right-of-way, but the important point is that they own the very railroad corridor land itself. They are not just *adjacent* landowners. They are ***the*** landowners. They own the strips of land that run through their farms or yards where trains once ran, every bit as much as any homeowner owns a back yard, driveway or deck.

Railroad companies and trails advocates often fail to look at any perspective on this issue except their own. Railroads want to be paid for land they once used, regardless of whether they own it. Trails proponents see opportunities for recreational uses and often view my clients as greedy or disgruntled *neighbors*, rather than as ***the owners*** of the land that is to be taken for the trail.

The owners' perspective is quite different. Because it is their land, they not only look down the abandoned railroad corridor, but also across it. Looking across the right-of-way, they see the rest of their farm, reunited for a more efficient farming operation, now that the railroad has brought to an end the agreement that allowed the railroad to use it. They see a backyard in which their children can play in safety and privacy. Sometimes they see a strip of land that has become a sanctuary for wildflowers, berry bushes and wildlife, which they would like to preserve, free from asphalt surfaces and traffic. In short what they see is ***their home, their farm, their land.***

Those who look only down the corridor not only miss a beautiful view of life, they also miss the fundamental point that we learned in kindergarten: You shouldn't take something that is not yours. The perspective down the corridor turns a blind eye to those who own the land. A trail proponent, in zeal to establish a recreational trail, may presume that the railroad rather than the real landowners should be approached and paid for the land. The railroad, of course, likely will be happy to oblige. Thus the real landowners are taken out of any involvement whatsoever in what happens to their land.

That is the perspective that has been fostered and maintained by the present law. That is why change of the kind proposed by H.R. 2438 is necessary.

MISCONCEPTIONS OF LAW AND FACT

Like a horse wearing blinders, policy makers whose perspective blinds them to the view across the trail can only lurch forward, dismissing everything on either side as irrelevant or misguided. This blindness has led to a number of misconceptions.

Misconception 1. Railroads really own the corridors after abandonment, and any other ownership claims are either wrong, speculative, unprovable or trivial.

The fact is that property ownership in railroad corridors is governed by established state property law. The deeds by which the railroads originally acquired the rights to use landowners' property for railroad purposes are enforceable documents just as any other deeds. In many cases, the railroads did not buy the land where they placed their tracks, but rather only obtained an easement or a right to cross the land for railroad purposes, rights which are extinguished when the railroad ceases to use the right-of-way for railroad purposes. The landowners have owned the land all along, and *they alone* retain the right to sell it. Upon abandonment of the railroad the landowners are relieved of the burden of the railroad easement and have full rights to use the land as they see fit, within the law. Proof of ownership should not be difficult in most cases. However, even if proof were difficult that would be no justification for taking the land from the landowner and giving it to the railroad to sell, without an opportunity for the landowner to prove ownership. Not only would that be unfair, it would be unlawful.

The law protects landowners' title against unjustified claims by railroads and those who claim to have received title from railroads. Just this past summer three very significant state supreme court decisions favorable to landowners were handed down in cases in which we represented the interests of landowners against Penn Central, Conrail and AT&T (claiming to have obtained fiber occupancy rights from Conrail). Assertions that landowners either do not own significant amounts of abandoned railroad land, or cannot prove it or have only trivial claims are just wrong.

Misconception 2. Replacing a railroad with a trail doesn't hurt anyone, and it creates no greater burden than the railroad did, so landowners' concerns should not be considered.

For many landowners, a railroad operating on a regular schedule on fixed tracks in the middle of the corridor is much less invasive of ownership rights than a trail open to the public for pedestrian, equestrian, cycling, snow-mobiling, three-wheeler or roller-blading traffic round the clock. When a trail is built, people will come. Farmers who have animals and legitimately use large machinery and chemicals near a railroad corridor may have their farm and business activities greatly curtailed by the presence of trail users, and their liability may increase to those who wander off of the trail.

More basically, as a matter of property law the right to sell or lease the use of land belongs to the owner of the land, not to a railroad that had only an easement across the land or a right to a limited railroad use of the land. If the railroad never bought the land, it is fundamentally unfair -- and unlawful under state property law -- for the railroad to sell it. That right belongs to the landowner alone.

Misconception 3. Because the Rails-to-Trails law is constitutional, there is no taking when a railroad is converted to a trail.

The Supreme Court has held that the National Trails System Act does not violate the constitution, because when an ownership interest is taken under the Act the landowner may obtain compensation by filing an action in the Court of Federal Claims. Far from concluding that no compensable taking has occurred, the Supreme Court has held that a procedure is available for a landowner to obtain compensation. When the railroad owns the fee simple interest in the land, then its transfer of the land for a trail use is not a taking of anyone's land. However, if the railroad's right to the land under state law terminates upon the cessation of railroad use, then the trail conversion deprives the landowner of his or her full possessory rights in the land, and that clearly is a taking for which the Fifth Amendment Takings Clause requires the United States to compensate the landowner. In plain English, it is taking something that belongs to someone else.

Misconception 4. Federal regulatory procedures can better preserve corridors, protect owners, supervise trials, and enforce the law than state or local law.

The Surface Transportation Board has held that it has no discretion but to order trail use if a railroad and a trail sponsor agree to such use. Thus no determination is made that a railroad corridor is appropriate to preserve for future use before railbanking is ordered. Further, no determination is made that a trail is appropriate on a particular corridor, or that the federal government can afford to pay for the land if trail conversion constitutes a compensable taking for which the federal government is liable.

The STB also has held that it has no responsibility to determine the legitimacy of a trail sponsor, such as whether it is properly organized to do business, has any intention to operate a trail, or has the means and capabilities to manage a trail or to preserve a corridor for future railroad use. The STB will not look behind the bare assertion of a trail sponsor that it is "willing" to assume financial responsibility for a trail. Neither does the STB have investigative, supervisory, or enforcement staff or budget to conduct the kind of law enforcement that state and local governments would be expected to do under zoning, health, fire and safety laws, if federal law did not preempt state and local authority under the Rails-to-Trails Act.

Thus the STB has ordered railbanking where no conceivable future rail use has been suggested. The STB has refused to review a trail use order where the trail sponsor is really an arm of a salvage company that is selling ballast and bridge components, rendering trail use impractical. The STB has approved a "trail sponsor's" control of land while the railroad with

which it has contracted negotiated sales of quitclaim deeds to the real landowners, deeds that have value only because the railroad can tie up the land through the STB's trail use authorization.

Finally, the STB has asserted that its limited budget and resources do not permit it to monitor abuses where trail sponsors or railroads do not comply with the STB's orders. Indeed, the STB's predicament is understandable, because it has been put in the position of replacing planning, zoning and building department functions for hundreds of counties and municipalities nationwide with an available enforcement staff that is probably smaller than that of a large town or small city. Thus, under present law and administrative procedures, irresponsible trail sponsors, even those created as a sham by a railroad or a salvage company, can operate in a lawless state, accountable to no one for much of their conduct.

RAILROAD LAND ABUSE

Our litigation on behalf of landowners has revealed a corporate culture in some of the nation's leading railroads that tolerates and even encourages deception and fraud against landowners. It is a cynical corporate culture that appears to have reaped ill-gotten gains equaling hundreds of millions of dollars or more. Our files contain documentation where railroads have systematically demanded from landowners large sums of money to release so-called "interests" in land that railroad management knows the railroad does not own. In one case a railroad threatened to enter onto public property and remove a large stone monument to the war dead of the community if the railroad was not paid for land that it never owned, and which it had abandoned more than fifty years ago. An injunction proceeding was required to protect the monument and to get the railroad to acknowledge its lack of any basis for a claim of ownership.

In other cases railroads have collected hundreds of millions of dollars under secret agreements to transfer subsurface occupancy rights to telecommunications companies where the railroad has itself acknowledged that it does not have a legal right to control the subsurface rights. In still another case a major national railroad and a local government official colluded to inflate the stated value of a railroad corridor by more than 300 percent in order to obtain more ISTEA funds for a trail, with all of the money paid to the railroad for abandoned land that it did not own.

The patterns of corporate arrogance and deceit in land transactions by some major railroads are so pervasive that a former director of the National Park Service volunteered to testify in one of our cases that a pattern and practice of abuse existed in that railroad's dealings on matters that were addressed at nearly the highest levels within the United States Government. That national railroad, he said, always took as much as it could for as long as it could get it, without regard to any legal right. He testified that the railroad had a pattern of making deals at the highest levels that were broken by the real estate department that was charged with concluding the transaction.

Homeowners, farmers, small landowners, churches, little league clubs and even the nation's taxpayers have been bilked by railroad companies' land practices. Many of those people are my clients, and they are your constituents.

It is against this background that many landowners have viewed the Trails Act as yet another way that railroads can sell interests that they do not own on real estate that they never purchased, even after abandoning their common carrier obligations. Some members of this subcommittee may be aware that I made similar observations in testimony before another subcommittee of this Body a year ago. At that time I offered to present evidence of the railroads' abusive conduct from their own files, some of which I had with me. No railroad came forward to challenge my statements. I still have the files.

BALANCING LEGITIMATE INTERESTS UNDER THE RAILS-TO-TRAILS ACT

It is against this background that new legislation such as H.R. 2438 should be considered. From the perspectives of many railroads, the Rails-to-Trails Act has become a way to demand money legally for real estate that they never purchased and do not own. From the perspectives of some trail proponents, the end of establishing a recreational trail justifies the means of taking land from landowners without compensation to them and without considering their wishes, the wishes of the local communities, or the benefits of alternative land uses.

From the perspective of some federal policy makers, the ideal of nationwide recreational trails justifies a legal fiction that railroad easements are not really "abandoned" for railroad use when trails are built on them. State property laws are preempted and replaced with a vague and unenforceable federal concept. From the STB's perspective, the congressional trails mandate excuses the agency from review or enforcement of either trails use or the validity and operations of trail sponsors. Correspondingly, preemption of state law leads to a virtually lawless state where no one in fact regulates trail sponsors or much of the conduct on the trail lands.

For the real owners of the land, the consequences are very real. First, they lose their land. Second, their farming or business operations, or even worse their family's sense of security and safety, may be compromised by the new trail use. Where a train occasionally crossed their land on a fixed track in the middle of a right-of-way, without invasion of their privacy, the rails-to-trails measure allows the entire corridor through their land, sometimes right up to their kitchen and bedroom windows, to be used at all hours of the day and night by anyone at all, regardless of their motives.

Third, if the trail sponsor abuses the law, the real landowners are denied access to state and local government to redress grievances, including not only land use but in some instances even health and safety enforcement. Fourth, landowners have no practical access to federal law enforcement, because the STB has held that it has no discretion to deny trail use or to police it, and has insufficient budget or staff to perform law enforcement responsibilities that would be exercised by state or local government, but for federal preemption.

If members of this Subcommittee put themselves in the positions of landowners, a different perspective will be obvious. I urge a balanced policy that respects the perspective across the corridor as well as down the corridor. I urge this Subcommittee to adopt positions of public policy that consider the real world effects of preempting state law, where federal agencies can provide no practical substitute law enforcement.

H.R. 2438 provides a way to restore balance among the various public and private interests that are affected by the Rails-to-Trails Act. Public policy should recognize and protect the legitimate interests of persons whose land is taken for a new public purpose and whose lives and the lives of their families will be changed forever as a result. Those persons who are most affected should at the very least have a role in the process, be given protection against the loss of security and privacy, and have access to traditional land law to enforce their property rights.

The conservation and recreation objectives of the Rails-to-Trails Act can be accomplished without sacrificing constitutional safeguards, without eliminating the roles of state and local government, and without violating the simple principles that we should never take what is not ours without first asking, and we should pay for what we take.

Nels Ackerson

Biographical Summary

Nels Ackerson

Nels Ackerson is chairman of The Ackerson Group, Chartered, a Washington law firm with a national and international clientele. Mr. Ackerson's clients over the years have included governmental and international organizations, Fortune 500 companies, agribusiness concerns, financial institutions, and other companies and individuals. In addition to heading his own firm, Mr. Ackerson has been the managing partner of a an international office of a major American law firm; chief counsel of the United States Senate Judiciary Subcommittee on the Constitution; lead trial and appellate counsel in significant constitutional, commercial and financial litigation and international arbitration; and lead counsel in international transactions and dispute resolutions in the Middle East, Europe, Asia and Latin America.

Mr. Ackerson represents landowners in regulatory proceedings, individual lawsuits, and class actions to defend and enforce their legal rights to railroad and telecommunications corridors. He has represented many landowners before the Surface Transportation Board and in Federal and State trial courts and courts of appeal concerning railroad right-of-way issues, including railbanking and interim trail use.

He holds degrees from Purdue University (B.S. in Agriculture with distinction), Harvard University (Master in Public Policy) and Harvard Law School (J.D. cum laude), where he was a member of the board of editors of the Harvard Law Review.

DISCLOSURE REQUIREMENT
Required by House Rule XI, clause 2(g)

1. Name: Nels Ackerson

2. Business Address: 1275 Pennsylvania Ave., Suite 1100, Washington, DC 20004-2417

3. Business Phone Number: (202) 628-1100

4. Organization you are representing: The Ackerson Group, Chartered

5. Any training or educational certificates, diplomas or degrees which add to your qualifications to testify on or knowledge of the subject matter of the hearing:

   B.S. Agriculture, Purdue University
   Master in Public Policy, Harvard University
   Juris Doctor, Purdue University

6. Any professional licenses or certifications held which add to your qualifications to testify on or knowledge of the subject matter of the hearing:

   Member of the bars of the District of Columbia, Indiana and the United States Supreme Court.

7. Any employment, occupation, ownership in a firm or business, or work related experiences which relate to your qualifications to testify on or knowledge of the subject matter of the hearing:

   President
   The Ackerson Group, Chartered
   Attorneys and Counsellors

8. Any offices, elected positions, or representational capacity held in the organization on whose behalf you are testifying:

   See above

9. Any federal grants or contracts (including subgrants or subcontracts) which were received since October 1, 1994, from the Department of the Interior, the source and the amount of each grant or contract:

   None

10. Any federal grants or contracts (including subgrants or subcontracts) which were received since October 1, 1994, from the Department of the Interior, the source and the amount of each grant or contract:

None

11. Any other information you wish to convey to the committee which might aid the members of the Committee to better understand the context of your testimony:

I have practiced law for 26 years in the United States and internationally. In recent years my practice has focused on large, complex litigation and public policy. I have represented many landowners from 15 states in litigation and in regulating and policy issues involving railroad rights of way, including trails conversion.

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Richard Welsh, Executive Director

October 24, 1997

Testimony for H.R. 2438 before the Subcommittee on National Parks and Public Lands on October 30, 1997 in Washington, D.C.

Members of the Subcommittee, I am Richard Welsh, the executive director of The National Association of Reversionary Property Owners (NARPO). We want to thank you for the opportunity to **speak in support** of Congressman Ryun's bill, H.R. 2438, The Railroad Abandonment Clarification Act. NARPO is a nationwide non-profit organization dedicated to the preservation of reversionary property rights for tens of thousands of property owners throughout the United States. NARPO's home office is in Bellevue, Washington and we have division offices in Kansas, Michigan and Pennsylvania. NARPO has been involved in the rails-to-trails issue since 1985 when the ICC (now Surface Transportation Board (STB)) started the rulemaking process for implementation of the rails-to-trails law. NARPO currently is working with aggrieved property owners and taxpayers in 47 states. To date, there are over 60,000 property owners throughout the United States affected by the rails-to-trails law.

Because NARPO has been involved with rails-to-trails since the original ICC rulemaking in 1985, we have a great depth of knowledge about the property owner issues. Regardless of the intentions of the supporters of the rails-to-trails movement, rails-to-trails as passed by Congress and implemented by federal agencies, has become a terrible detriment to individual and constitutional property rights.

H.R. 2438, will go a long way to right the major flaw in the rails to trail law. When Congress passed the original rails-to-trails law in 1983, the new railbanking policy preempted state reversionary rights. Congressman Ryun's bill will eliminate this preemption. This will not be the death of rails-to-trails as the trails proponents insist. Instead rails-to-trails project sponsors can acquire land like any other entity seeking specified land for a specific use. Government and private groups can pay for the land needed from property owners to develop trails.

The rails-to-trails law has programmed over 3,600 miles of trails across 62,000 pieces of private property without paying one cent in compensation for the loss of reversionary property rights, rights which the U. S. Supreme Court has said are compensatory. Jane Glosemeyer, who is testifying here today, has waited over nine years for her compensation ---with no end in sight.

Because the rails-to-trails act preempts state property laws of reversion, certain state and federal laws lose their application. A glaring case of laws being abrogated due to the rails-to-trails act occurred near Park City, Utah in 1989. When Union Pacific Railroad abandoned their line from Echo, Utah to Park City, abutting owners expressed concern over the nearby tailing piles from the old Silver King Mine. The tailing piles lie directly on the right-of-way and are an environmental risk. The BLM Hazardous Material Unit ordered an environmental survey be conducted of the right-of-way which was proposed for trail conversion. The survey reported that voluminous amounts of arsenic, mercury and lead were present and leeching into the soil and in the air around the area. The report warned that children would be susceptible to airborne carcinogens emanating from the tailing piles. Because of exemption from state and federal environmental review of trails, nothing was done and the trail was built within 20 feet of exposed tailing piles. If Park City would have had to abide by state reversionary laws, more oversight of the project would have occurred, and the polluted land most assuredly would have been cleaned up. In this, case as in others, responsible land ownership comes with private ownership.

One of the worst aspects of the rails-to-trails act is that private entities can designate and develop these trails without ever being subject to the electorate. In a case near Lewiston, Idaho, a rail salvage company has acquired an interest in a long-abandoned railroad. When the property owners heard there might be a trail on the old rail bed that ran through their property, they tried to find out who had designs on their property. Public and private attempts to determine ownership responsibility failed. NARPO was able to determine the railroad was abandoned in 1985, and the land had reverted to the abutting property owners. During this confusion, the trails group sold quit claim deeds to the right-of-way to unsuspecting property owners.

One way property owners can fight to regain the use of their land is to convince local elected officials to oppose rails-to-trails projects. It is difficult to succeed, however, when an advantage is provided to trails groups over land owners through federal law . In almost every instance, property owners do not know about a forthcoming project until the trail is being built through their property. The Rails-to-Trails Conservancy (RTC), who is testifying here today, tries to make sure the property owners do **not** know about the trails projects. I am entering into the record today a copy of a letter from RTC to the City of Emmett, Idaho where RTC advocates keeping the property owners in the dark until funding and authorization for the trail is assured. The sad part is, RTC receives federal program money to collude against property owners.

Interim Trail Use designation and the arbitrary control by a trails group has had detrimental effects to property rights. After being designated as the Interim Trail User under the rails-to-trails act, an entity has complete control of the right-of-way. The negotiations between the trail use entity and the abandoning railroad can go on for years (over five years on some abandonments). The STB exerts no oversight before or after issuing Interim Trail Use permits to trail group entities. Meanwhile, the abutting property owners do not know who is the controlling entity in which to address their complaints. Property owners need to know who to contact for crossing permits or other historical uses made of the right-of-way.

A large group of farmers in central Pennsylvania discovered that their farms, which were split in two by a railroad right-of-way, would now be split by a recreational trail. The trail users did not like the smell of the farms and livestock and called Pennsylvania authorities to investigate the farmers for the odors. The trail developer also blocked ditches which drained the farmers fields. Now the farmers have wetlands that Pennsylvania says cannot be farmed. All this, notwithstanding the fact the abutting property owners are the fee simple owners of the right-of-way--land which should have reverted back to the farmer upon secession of rail use.

In another negative side effect of the rails-to-trails act, trails groups or their partners posing as non-carrier railroads are acquiring rail lines as operating railroads without the intent of operating the line as a railroad. They immediately file for abandonment of the line and sell the right-of-way to a government entity for trail use. Railroads, trail groups, trail group legal representatives, and state and local governments are winners as federal ISTEA money funds the acquisition and development of trails (private property). The losers are the property owners who lose the use of their land with no recourse.

H.R. 2438 will prevent the preemption of state reversionary property law. Groups interested in making trails would have to abide by state reversionary property law. Abiding by state property law would solve all of the above-mentioned problems before they occur. If a state or local government wanted to develop a trail, they could condemn the right-of-way and pay the property owner. This is the way our laws are supposed to work.

Rails-to-trails, as written, effectively means the extinguishment of reversionary rights. The U.S. Supreme Court has said these rights can be taken, but the Court said the Constitution requires just compensation must be paid for the "taking." This fundamental Constitutional protection of just compensation and due process allows the minority to protect themselves from the overreaching of the majority. The person that gets stuck is the property owner who is kept in the dark through a process that favors trail groups. H.R. 2438 will go a long way to reestablishing our constitutional rights. If trails groups, whether public or private, want to build a trail then they should have the financial wherewithal to buy the land and build the trail.

We want to thank the Public Lands Subcommittee for having this hearing on H.R. 2438 so the inequities to tens of thousands of property owners throughout the United States can be corrected. I would be glad to answer any questions the Subcommittee members might have.

Richard Welsh, Executive Director
The National Association of Reversionary Property Owners (NARPO)

RAILS to TRAILS CONSERVANCY

Bob Speros, Director
Gem Economic Development Association
231 S. Washington Ave.
Emmett, ID 83617

August 5, 1996

Dear Bob,

I enjoyed meeting with you (and John Harshman and the Mayor) in Emmett, and I'm impressed by what you've been able to accomplish on your own on the rail-trail project.

After meeting with you and seeing the corridor, I suggest you take the following steps:

- File a railbanking extension (talk to Joe Anthofer at Union Pacific first)
- Form a citizen advocacy group
- Have the citizen group contact me for help / information
- Keep the project relatively quiet until you have enough support to put the right spin on it and get positive coverage.
- Encourage the Middleton contact(s) to do the same things you are -- research reversionary interests, form a citizens group, etc.

I hope my visit was helpful, and I look forward to working with you and others as this project progresses.

Keep in touch!

Steve

Steve Emmett-Mattox

'00 Seventh Street, NW
ste 300
Washington, DC 20036
202-797-5400
FAX: 202-797-5411

Testimony of Jayne Glosemeyer
A Landowner from Marthasville, Missouri
Before the National Parks and Public Lands Subcommittee
of the Resources Committee

October 30, 1997

I am Jayne Glosemeyer, a landowner from Marthasville, Missouri. I came here today to tell you that the Rails to Trails Act may produce trails, but in the process it destroy things much more precious--the safety and security one has in their property and a future hope of passing down one's heritage to their children. My husband and I learned of this government policy that prevents us from using our own land by reading the sports section of the St. Louis Post-Dispatch. Landowner notification is not a provision of the Rails to Trails Act.

We own and operate a farm that has been in our family for over 100 years. My great-uncle granted and recorded an easement in 1889 to the Cleveland, St. Louis and Kansas City Railway Company, of which I hold here, allowing 12 acres to be used "for the purpose of a right of way for a railroad, and for no other purpose." Today, instead of a railroad, which my family agreed to, I now have a state park running through the middle of our farm.

A landowner group, made-up of community members, formed with me and spent over $150,000 to fight for our property in state court, federal court, the U.S. Supreme Court and now the U.S. Court of Claims. Over 10 and a half years of my life has been spent in some form of litigation over land that I own and have the deed. This confiscation of private land for public use has left me feeling like a second class citizen.

Neither the Missouri Constitution nor Missouri State statutes have protected me. The Rails to Trails Act is a scam contrived by special interest trails groups to void state railway abandonment law in order to use my land for their purposes. Trail proponents state in a September '86 issue of The Bay State Trail Riders Assoc., Inc. 1973 (BSTRA, Inc.) that railbanking is a "myth" and a way to "get old Railroads without having to pay for them." Railroad companies welcome the effects of this law because they receive money for land they do not own nor have the rights to sell. According to the Rails to Trails Act, my legal contract with the railroad company is a useless sheet of paper! I do not understand why Congress would pass a law that negates legal contracts and renders state property law useless.

As a result of the Rails to Trails Act, I have found that I have not only lost my property rights, but I am also forced to carry an undo financial burden to provide recreational space for the general public. The Katy Trail sits 30 yards outside my front door and two feet from our livestock pens and sheds., In addition to the privacy I have lost because of the trail, I am forced to rent housing facilities for my livestock two miles from our farm. The potential for liability and disease from human contact with our livestock has caused us to move our animals and prevented us from expanding our livestock operation. Imagine owning plenty of land to operate and expand a hog farm only to have a government program force you to rent land because the program has made your land unfit.

Now that a recreational trail exists in the railroads's place, we face significant exposure to liability arising from the uncontrolled trespass of the public, who are generally ignorant of the dangers of interfering with the breeding habits of animals. Our once peaceful farm was at risk of being sued should a trail user be injured by an animal. One afternoon, I returned home to find a woman, off of her bicycle, sitting in the shade of our shed while her child chased one of my piglets around my field. I shudder to think what would have happened to the child if my piglet had squealed and the 600 pound sow came to the rescue of her baby.

Representative Jim Ryun's bill, the Railway Abandonment Clarification Act, will honor state property law and prevent the federal preemption of state law concerning how railway abandonments are treated. Since it will remove the federal mandate regarding the treatment of abandoned railways and designation of recreational trails, I will be free to deal with the state of Missouri. As you may know, due to the lobbying efforts of the landowners along the abandoned Katy rail line, the State of Missouri struggled with the issue of whether to proceed with the Katy Trail, and with that I do not object. I do object, however, when the federal government grants to special interests groups and railroads, both non-public entities, the power and authority to claim my land as their own to do what they wish. The Railway Abandonment Clarification Act removes the federal bias that converts abandoned railways into trails over the rights of property owners. Since it is my land, I want control over how it is used. Anyone, including the State of Missouri, should consult me first to ask permission to use my land.

I support Jim Ryun's bill and encourage its immediate consideration by the committee.

I would be happy to answer any questions the subcommittee may have.

Testimony of Howard Woodbury

I appreciate the opportunity to appear before the Subcommittee on this issue that directly affects my farm and family. Representative Ryun's bill, H.R. 2438, the Railway Abandonment Clarification Act, is a sensible solution to the problems created when bikers, hikers and horseback riders want to put a trail on my land where there used to be railroad tracks.

My name is Howard Woodbury and my brother, father and I operate a diversified farm of 4,000 acres in Eastern, Kansas. On my farm, we raise wheat, corn, grain sorghum, soybeans, and cattle. My grandfather bought this farm more than 50 years ago when the Missouri Pacific Railroad operated the rail line that runs through my land.

Originally, the railroad was built in 1886 and served Forbes Field in Topeka when it was an Air Force Base. After Forbes Field became an Air National Guard base, the rail line was used to service some farm co-ops in Northern Osage County, but no longer continued north into Topeka. The particular line that cuts across my property is a 15 mile spur from Lomax to Overbrook off of the Union Pacific line out of Kansas City.

When my grandfather bought our farm, he understood that there were existing easements for "railroad purposes" on the land. My grandfather understood, and it has been long understood in Kansas, that railroads hold no interest in the land except as an easement. The Rails to Trails Act, however, has put in jeopardy the owner's property rights to his land which holds an easement.

Kansas law 66-525 states "Any conveyance by any railroad company of any actual or purported right, title or interest in property acquired in strips for right-of-way to any party other than the owner of the servient estate shall be null and void, unless such conveyance is made with a manifestation of intent that the railroad company's successor shall maintain the railroad operations on such right-of-way, and railroad owns marketable title for such purpose." What that means is that, unless the railroad sells the railway to another railroad, the easement expires and I regain the use of my land.

In fact, my property held another railway that was abandoned sometime in the 1920s. Consistent with Kansas state law, the use of that land reverted back to our farm. Today, I use that land to grow hay to feed my cattle and other livestock.

Sometime in 1984 or 1985, a flood caused a washout of the Missouri Pacific railway north of my farm between Overbrook and Michigan Valley. Because the line was not heavily used and probably did not generate too much business for the railroad, the washout was not repaired and rail service was discontinued on the line. The Overbrook Co-op sued the Missouri Pacific to repair the washout and re-instate rail service for their grain elevators.

The Union Pacific railroad bought the railway shortly after rail service returned on the line. This was particularly memorable because, since the washout repair, the railway was not as sturdy as before and trains would travel up and down the line at only about 8-10 miles per hour, blowing their whistles as they went.

In 1993, rail service was permanently discontinued and the tracks and ties were removed in 1996.

Around this same time, rumors began that the railway was to be converted into a trail for horseback riders and recreational users. Neighboring farms, like mine, which would be affected by this conversion were concerned. We had seen and were aware that another abandoned railway South of Topeka was dedicated as one of these recreational trails and never amounted to much. The right-of-way is not developed, not maintained and seems like a big waste of money, property and other resources.

My family and I did not want our land to be turned into an eyesore since, according to state law, I should be able to use the land to graze my cattle. Some landowners from surrounding towns met together but, we were told that if we wanted to use our property it would be a long, drawn-out and expensive legal fight. In addition the trail manager, the director of the Kansas Horseman Foundation and the former director of the Kansas Wildlife and Parks Service, told us that they owned the land. He further stated that anyone fencing off the corridor or attempting to use the land could be arrested. Also, the trail manager said that, although the trail was open for public use even though it had not been developed, and would not be responsible to keep out trespassers.

Our fears about our land are becoming quickly realized. It is not maintained, has not been developed, and trespassers are a constant problem. Because the right-of-way has become a kind of "no-mans'-land," heavy rains have shifted rocks and soil and have damaged some of the fencing. I took it upon myself to repair the fencing to keep my livestock safe but have yet to be reimbursed by the trail manager. I would like to use my land, keep it maintained and determine its use for myself.

What really gets under my skin is the fact that by all rights this land is mine and I should be able to do with it what I want. Representative Ryun's bill would allow me to do this and would let the state of Kansas determine how to create recreational trails. Ryun's bill makes it clear that the federal government does not preempt state law with respect to the establishment of an easement or right-of-way or a property interest. The people of Kansas have the good sense to develop laws and regulations under which everyone can operate. And, if we have a problem, I can get to the courthouse or state house without having to travel to Washington, D.C. to address my grievance.

Edward Norton

Mr. Chair and Members of the Subcommittee, thank you for the opportunity to appear before you today to provide our views on H.R. 2438, the "Railway Abandonment Clarification Act." My name is Edward Norton. I am a founding member of the Board of Directors of the Rails to Trails Conservancy. The mission of the Rails-to-Trails Conservancy is to enrich America's communities and countrysides by creating a nationwide network of public trails from former rail lines and connecting corridors. The Rails-to-Trails Conservancy (RTC) is a national nonprofit conservation organization founded in 1985. Specifically, RTC identifies rail corridors that are not currently needed for rail transportation and facilitates their preservation and continued public use through conversion into public trails and non-motorized transportation corridors. We have more than 70,000 members nationwide, and chapters in Ohio, California, Pennsylvania, Florida, Illinois, and Ohio.

We strenuously oppose H.R. 2438 for the following reasons:

- the bill will destroy rather than implement our national policy of rail corridor preservation, by making it virtually impossible to preserve our national rail infrastructure for future reactivation of rail service;

- the bill will destroy all of the additional benefits of interim trail use under the present law, including providing alternative transportation, utility corridor location, and the economic benefits that have followed the development of "rail-trails" in numerous communities across the country;

- the bill will eliminate any incentive that presently exists for railroads to preserve their unused corridors by creating a cumbersome, burdensome and confusing administrative process for implementing the federal railbanking policy; and

- the bill will not provide any protection to private property rights of adjacent landowners.

Legislative Purpose of Section 8(d) of the National Trails Systems Act

Section 8(d) of the National Trails Systems Act was enacted by Congress, and signed into law by President Ronald Reagan, in 1983. The overriding purpose of the law was to respond to the dramatic shrinkage of our nation's rail corridor infrastructure, from its 1920 peak of more than 270,000 miles of corridor, to 141,000 by 1990, with rail corridors being lost through abandonment at the alarming rate of approximately 2,000 miles per year. Our nation's rail corridor system, "painstakingly created over several generations," was at risk of becoming irreparably fragmented.[1] Today, it would be virtually impossible to recreate this

system once the right of way is abandoned and sold, and bridges, tunnels and other costly structures destroyed.

Section 8(d) preserves these corridors intact so that rail service can be easily restored if they are needed for interstate commerce, communication systems based on fiber optics, or national security purposes. One need look no further than the recent decision by the State of Washington to reactivate rail service on the former Iron Horse trail, a 100-mile rail-trail in Washington state, in order to ship goods between the midwest and Seattle-area ports. Notwithstanding the relatively short period of time in which this law has been in existence, there have been five railbanked corridors that were initially determined to be unneeded by the railroads that have since been returned to active rail service as a result of this law. Today, there are 123 successfully railbanked corridors in 25 states, representing 3.412.3 miles of right-of-way that remains part of the national rail system and available for potential reactivation of rail service as a result of Section 8(d).

A primary reason for the success of Section 8(d) is its explicit preemption of any state law that might otherwise result in an "abandonment" of the right of way for railroad purposes. The legislative history and clear statutory language indicates that Congress considered preemption to be the linchpin of Section 8(d) and our national rail corridor preservation policy. The legislative history specifically states as follows: "The concept of attempting to establish trails only after the formal abandonment of a railroad right of way is self-defeating; once a right-of-way is abandoned for railroad purposes there may be nothing left for trail use."

At the same time, the law also strikes a deliberate balance between the need for rail corridor preservation, and the economic and competitive interests of the railroads in rapidly divesting themselves of duplicative or unneeded rail lines. This balance is struck by the present expedited administrative process for implementing the law, which requires the Surface Transportation Board (STB) to issue a railbanking order if a purely voluntary agreement is reached between the railroad and a potential trail manager, under which the trail manager must assume full responsibility for the line, including all legal liability and payment of taxes.

H.R. 2438 Would Destroy Our National Rail Infrastructure

The "Railway Abandonment Clarification Act" does not, in intent or effect, accomplish its stated objective of providing relief to private landowners. It clarifies no policy or property interest. Instead, it destroys our national policy favoring rail corridor preservation. If enacted, any national policy seeking to preserve unused but potentially valuable corridors will be nullified, and our built rail system will rapidly disintegrate. Without an effective rail corridor preservation law, title to these rights-of-ways is likely to be tied up in litigation for years between a variety of entities alleging conflicting interests, including state or local governments (which might be entitled to own federally granted right-of-way or which might

have granted the corridor to the railroad in the first place), adjacent landowners, utility companies with long-term leasehold interests in the corridor, and the railroad.

The bill creates legal and administrative confusion in three ways, each of which, standing alone, would be sufficient to destroy this important program. First, the bill expressly provides that the issuance of a railbanking order does not preempt state laws that may conflict with the national railbanking policy, thereby foreclosing future restoration of rail service on the presently unused rail corridors in certain states. It is a contradiction in terms for a national rail policy to allow individual states to opt out of the policy. Such a practice would also frustrate the interests of states that do want to preserve our national rail infrastructure and its connections beyond state boundaries, by irreparably fragmenting corridors that pass through a state that disagrees with the national policy.

This bill also raises many troubling interpretive questions, stemming from these inherent internal inconsistencies. For example, the law relating the ownership of railroad rights of way in most, if not all, states is both ambiguous and arcane. The application of even the clearest state policies inevitably depends on the language of the particular deeds by which the railroad originally acquired the property, and other facts and circumstances of events that may have occurred more than a century ago. Moreover, many corridors cross more than one state, whose state policies may contradict each other. The bill does not attempt to resolve these questions, but simply grants the Surface Transportation Board discretionary authority to reconcile these internal contradictions.

Charging the Surface Transportation Board (STB) with responsibility to sort through this legal thicket will only serve to create long, complicated administrative proceedings that will endlessly delay the abandonment process, thereby frustrating the railroads' ability to divest themselves of legal responsibility for the corridors. Under such circumstances, it is highly unlikely that any railroad would consent to railbank their corridors for future rail use. Therefore, this Committee must recognize that this bill completely and totally eliminates any effective rail corridor preservation policy. Instead, we are left with a national rail corridor preservation policy in name only, which cannot serve its intended purpose of preserving our nation's rail infrastructure for future rail service reactivation.

H.R. 2438 Does Not Protect Private Property Rights

Ironically, this bill would do nothing to protect private property rights. In fact, the underlying assumption of the bill -- that rail corridor preservation inevitably intrudes on private property rights -- is grossly oversimplified and largely incorrect. The court decisions relating to the rights of persons claiming ownership interests in an out-of-service rail corridor uniformly demonstrate that the answer is dependent on the application of often inconsistent or ambiguous state law principles to the specific facts of each unique situation. It is also important to point out that more than 28,000 miles of railroad right-of-way was granted by the

federal or state government. Under federal law, federally-granted right-of-way reverts to the federal government upon abandonment unless it is converted to a trail or other public highway. It should be pointed out that Kansas has more than 924 miles of federally-granted rights-of-way. Interim trail use of these federally-granted rights-of-way therefore does not affect any property rights of adjacent landowners.

Furthermore, persons potentially aggrieved by the railbanking law have an adequate remedy. In 1990, the U.S. Supreme Court Supreme Court expressly refused to void Section 8(d) as a "taking" of private property rights, and held Section 8(d) to be fully constitutional. Instead, the Court held that the right to compensation must be adjudicated on a case by case basis under the federal claims process. While the litigation has been initially delayed due to questions regarding the legal analysis to be employed in evaluating these claims, these analytical questions were resolved by the U.S. Court of Appeals last November. The decision was quite favorable to private property interests, requiring only that claimants establish that they would have had the right to exclusive ownership of the right of way under state law but for the application of federal railbanking policy in order to be entitled to compensation.

As a result, any property rights concerns have now been definitively addressed by the judicial system. Give the fact-dependent nature of these compensation claims, the judicial system is the only way the competing ownership interests of the railroad, the trail manager, and adjacent landowners can be resolved fairly. It makes little sense to destroy a carefully crafted statute that effectively implements national rail corridor preservation policy simply because some, likely only a few, property owners may have a compensation claim, for which an adequate remedy already exists.

We note that there has been much recent focus on the present mechanism for bringing claims against the federal government, and that this Committee and the House of Representatives has enacted legislation, H.R. 1534, which would expand the jurisdiction of the federal courts to hear takings claims. While we are of the view that the current process is both fair and reasonably expeditious, destroying our national railbanking law will do nothing to fix the compensation system. Instead, it will simply eliminate any incentive that might have previously existed for railroads to agree to preserve their unneeded rights-of-way through railbanking. The result would be to turn back the clock back to the days when rails-to-trails conversions occurred without the benefits of the federal railbanking law, and were promptly tied up in state court litigation for years.

We would be happy to work with this Congress to address any deficiencies that are alleged in the mechanism for assessing compensation eligibility and amounts as a result of the implementation of the federal railbanking policy. However, such a reform must include two essential elements, in order to be fair to all stakeholders, and consistent with our national railbanking policy: First, the mechanism for determining compensation must be adjudicatory in nature, in order to ensure that only those landowners with a bona fide interest in the

property receive compensation. Second, the STB's obligation to railbank must remain mandatory and nondiscretionary, so that participation by the railroads in the railbanking program does not have the effect of delaying abandonment proceedings.

To the extent the STB's mandate is broadened to make discretionary decisions about whether to railbank based on competing interests in the corridor, the STB must be directed to stay any abandonment or disposition of the line until it decides whether or not to impose a mandatory railbanking condition, regardless of whether a railroad consents to railbank. So long as railbanking occurs at the discretion of the railroad, no railroad would ever be willing to participate in an extenuated administrative proceeding that has the effect of delaying abandonment authorization while competing claims on the right of way are resolved.

While this bill is not about property or compensation rights, it is also important to point out that an exclusive focus on "takings" allegations by trail opponents conveniently ignores the benefits sides of rail-trails. In fact, rail-trails have proven to be a significant stimulus to the local economies of the communities where they are developed. For example, an analysis of the economic impact of the North Central rail-trail in Baltimore County, where I live, has shown that the rail trail generated substantial economic benefits to the people of Maryland. This study showed that in 1993, the trail was used by over 450,000 people, and the number of users has been increasing at an astonishing growth rate of 53 percent per year. These users purchased goods valued in excess of $3.3 million annually, generating $303,750 in annual tax revenue, and supporting 264 jobs statewide.[2]

A 1991 study undertaken by the National Park Service found that the total annual economic impact for each of the three rail-trails studied was a net gain of $1.2 million per trail.[3] A 1986 study of the effect of Seattle, Washington's Burke-Gilman rail-trail on adjacent property values found that housing in the vicinity of the trail brought an average of six percent increase in the purchase price because of the existence of the trail.[4] Rail-trail users generate additional business for the local community and rail-trails are attractive to new businesses seeking to relocate to the area. In general, rail-trails and linear parks serve to enhance the quality of life in the communities in which they are located, offer an energy-efficient transportation alternative, and, above-all, help to preserve railroad corridors as valuable national resources for our Nation's future rail and transportation needs.

I would be happy to answer any questions members of this subcommittee might have.

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1 *Reed v. Missouri*, 487 F.2d 848, 849 (1st Cir. 1973).

2 "Analysis of Economic Impacts of the Northern Central Rail Trail" (June, 1994).

3 National Park Service, "The Impacts of Rail-Trails: A Study of the Users and Property Owners From Three Trails," (1991).

4 Seattle Engineering Department, Office for Planning *Evaluation of the Burke-Gilman Trail's Effect on Property Values and Crime*, (May 1987) (reprints available from Rails-to-Trails Conservancy).

Top Ten Ra.. Trail States

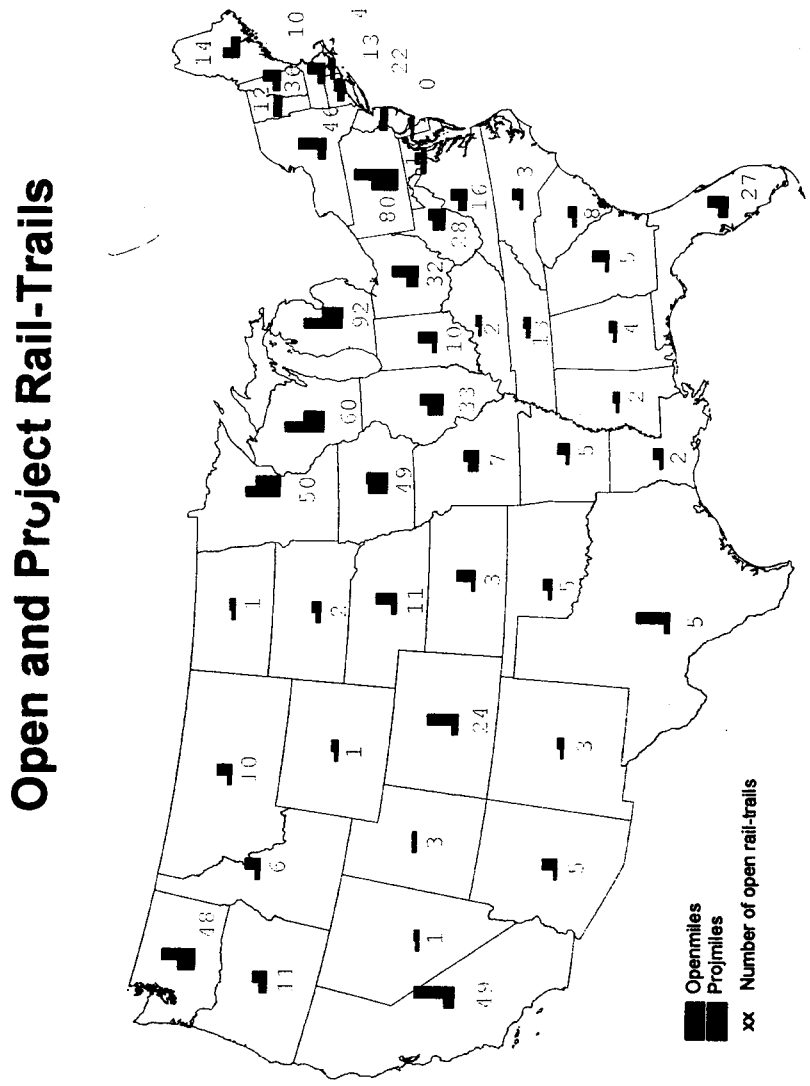
1. Wisconsin	62	1,226
2. Minnesota	54	1,174
3. Michigan	92	1,081
4. Pennsylvania	81	705
5. Iowa	51	501
6. New York	48	452
7. Washington	50	444
8. Maine	14	410
9. Illinois	36	387
10. West Virginia	29	305

10 Longest Rail-Trails in the U.S.

Trail	Miles
1. Katy Trail State Park (MO)	185
2. Milwaukee Road Corridor (WA)	145
3. Soo Line Trail (MN)	114
4. Blue Ox Trail (MN)	107
5. State Line Trail (MI)	102
6. Paul Bunyan Trail (MN)	100
7. White Pine Trail State Park (MI)	92
8. Mountain Bay Trail (WI)	83
9. Iron Horse State Park (WA)	82
10. Greenbrier River Trail (WV)	75

10 Most Heavily Used Rail-Trails

Trail	Users per Year
1. Minuteman Bikeway (MA):	2,000,000
2. W&OD Railroad Trail (VA):	2,000,000
3. Pinellas Trail (FL):	1,200,000
4. Iron Horse State Park Trail (WA):	1,200,000
5. East Bay Bicycle Path (RI):	1,100,000
6. Fox River Trail (IL):	1,000,000
7. Baltimore & Annapolis Trail (MD):	1,000,000
8. Northern Central Rail-Trail (MD):	1,000,000
9. Provo Jordan River Trail (UT):	1,000,000
10. Burke-Gilman Trail (WA):	1,000,000


Open and Project Rail-Trails
Openmiles
Projmiles
xx Number of open rail-trails

DISCLOSURE REQUIREMENT
Required by House Rule XI, clause 2(g)

1. Name: Edward M. Norton, Jr.

2. Business Address:
1785 Massachusetts Avenue, N.W., Washington, D.C. 20036

3. Business Phone Number:
202-588-6255

4. Organization you are representing:
National Trust for Historic Preservation

5. Any training or educational certificates, diplomas or degrees which add to your qualifications to testify on or knowledge of the subject matter of the hearing:
B.A. Virginia Military Academy, J.D. Harvard

6. Any professional licenses or certifications held which add to your qualifications to testify on or knowledge of the subject matter of the hearing:
No

7. Any employment, occupation, ownership in a firm or business, or work related experiences which relate to your qualifications to testify on or knowledge of the subject matter of the hearing:
No

8. Any offices, elected positions, or representational capacity held in the organization on whose behalf you are testifying:
Founding Chair & Board member of the Rails-to-Trails Conservancy since 1986.

9. Any federal grants or contracts (including subgrants or subcontracts) which you have received since October 1, 1994, from the Department of the Interior, the source and the amount of each grant or contract:
None

10. Any federal grants or contracts (including subgrants or subcontracts) which were received since October 1, 1994, from the Department of the Interior by the organization(s) which you represent at this hearing, including the source and amount of each grant or contract:
See Attached

11. Any other information you wish to convey to the committee which might aid the members of the Committee to better understand the context of your testimony:
None

RAILS TO TRAILS CONSERVANCY

Funds Received From The Department Of Interior
FOR THE PERIOD OF OCTOBER 1, 1994 TO SEPTEMBER 30, 1997

DATE	SOURCE	AMOUNT	% OF TOTAL REVENUE
October 1, 1994 to September 30, 1995	National Park Service	$ 26,060	0.65%
October 1, 1995 to September 30, 1996	National Park Service	$ 38,000	0.84%
October 1, 1996 to September 30, 1997	National Park Service	$ 60,824	1.18%
TOTAL RECEIVED FROM DEPT. OF INTERIOR		$ 124,884	

City of Garnett

October 27, 1997

JANICE L. HODGSON

Good morning, Mr. Chairman and Members of the Committee. My name is Janice L. Hodgson.

I am the Mayor of a community in Kansas which has a railbanked corridor which runs directly through our town. We currently receive a quality of life benefit from the National Trail System Act because we have a wonderful linear park which connects both of our city parks and reservoirs with the town square.

The Prairie Spirit Rail Trail between Richmond and Welda, Kansas, with Garnett as the central point, is now completed and is providing tremendous economic development and tourism results for the City of Garnett. Users are experiencing a healthy, safe place to walk, ride and bike as they enjoy all that nature has to offer. Ground breaking ceremonies for Phase II from Richmond to Ottawa occurred on Friday, October 24, 1997.

This is the first major tourism project for this area and the first rail trail in the State of Kansas. The 1.3 million dollar project was started by the Kansas Department of Wildlife and Parks and the Kansas Department of Transportation. This project was funded by ISTEA funds and we wish to thank the United States Congress for authorizing the highway transportation monies for this use. We were required to provide twenty percent (20%) of the funds to complete this project and these funds were provided by state and local government and private contributors.

The City of Garnett, through its economic development office, is keeping a close eye on the use of the trail as well as the impact that it has on our local economy. I promise that we will do everything possible to insure its continued success. We are committed to maintain three (3) miles of the trail that runs through our corporate limits.

Garnett is a rural community of 3,200 people. We are a community of volunteers and hard working people who understand what an enormous project the trail is. But we are willing to work hard to provide a quality of life environment not only for our citizens but for the many visitors that we are attracting to this area.

131 West 5th P.O. Box H. Garnett, KS 66032
(913) 448-5496 Fax: (913) 448-5555

Sales tax collections reflect a 7% increase from 1995 to 1996. We project that sales tax revenues from 1996 to 1997 will increase by 15% which we feel can be attributed somewhat to trail users that are coming to our city.

The proposed Amendments to the National Trails Act would remove the federal laws ability to override state law. Supporters of these amendments want the states to be able to decide how these corridors should be preserved, yet by the current statutes in Kansas, these right-of-ways would be disposed of as soon as they are abandoned by dividing the right-of-way among the current owners of the adjacent property. There is no mechanism in the State of Kansas to preserve rail corridors. The Kansas statutes divides all property, regardless if the land was from a direct grant from the U.S. Government to the railroad or obtained through an easement.

The railbank corridor, which travels through our community, was established in the 1860's and 40% of the rail right-of-way was from a direct grant from the U.S. Government. Other parcels were obtained through donation and the purchase of easements. Without railbanking all this would be divided among the adjacent landowners under current Kansas statute.

The corridor could be lost and with it any hope of future reactivation either for freight or for a possible light rail connection to Kansas City. In the meantime, our town would be deprived of a major resource for economic development.

In 1996, Governor Bill Graves issued a one (1) year moratorium on the construction of the second 15 mile section of the Prairie Spirit Trail. This would allow the county commission for the county through which that section passed to have the right to stop construction by simply voting not to allow the trail to pass through their county. The moratorium was for one year. In that time the County Commission never called a vote on the trail. After the year was over the moratorium was lifted and plans for construction began.

For these reasons, I am here to discourage any amendment to the National Trail System Act which would place the Act in danger and fail to provide a nationwide plan for the conservation of rail corridors.

I appreciate the time you have given me to express our opinions. Please visit our area and enjoy Kansas' first rail trail.

DISCLOSURE REQUIREMENT
Required by House Rule XI, clause 2(g)

1. **Name:** Janice L. Hodgson

2. **Business Address:** 131 West Fifth, Garnett, Kansas 66032

3. **Business Phone Number:**
785-448-5496

4. **Organization you are representing:**
City of Garnett

5. **Any training or educational certificates, diplomas or degrees which add to your qualifications to testify on or knowledge of the subject matter of the hearing:**

None

6. **Any professional licenses or certifications held which add to your qualifications to testify on or knowledge of the subject matter of the hearing:**

I have served on the City Commission since the inception of this project and am currently the Mayor.

7. **Any employment, occupation, ownership in a firm or business, or work related experiences which relate to your qualifications to testify on or knowledge of the subject matter of the hearing:**

None

8. **Any offices, elected positions, or representational capacity held in the organization on whose behalf you are testifying:**

See #6

9. **Any federal grants or contracts (including subgrants or subcontracts) which you have received since October 1, 1994, from the Department of the Interior, the source and the amount of each grant or contract:**

None

10. **Any federal grants or contracts (including subgrants or subcontracts) which were received since October 1, 1994, from the Department of the Interior by the organization(s) which you represent at this hearing, including the source and amount of each grant or contract:**

None

11. **Any other information you wish to convey to the committee which might aid the members of the Committee to better understand the context of your testimony:**

All information is included in my testimony.

Statement of

Richard V. Allen

Chairman, Richard V. Allen Company, Washington, D.C.
Distinguished Fellow and Chairman, Asian Studies Center, The Heritage Foundation
Senior Fellow, Hoover Institution on War, Revolution and Peace, Stanford University
Advisory Council of the National Republican Institute for International Affairs
National Security Advisor to President Ronald Reagan
Deputy National Security Advisor to President Richard Nixon

Presented to the
Subcommittee on National Parks, Forests and Lands
of the
Resources Committee
of the
U.S. House of Representatives

October 30, 1997

Mr. Chairman and Members of the Committee, I should like to thank you for the opportunity to appear before you today to share my views on H.R. 2438, the "Railway Abandonment Clarification Act."

My name is Richard V. Allen, and I come before you today as an individual landowner, with property in Edwards, Colorado. Edwards is a community adjacent to the son-to-be-abandoned 178-mile Southern Pacific "Tennessee Pass" rail line running from Canon City, through the cities of Salida, Leadville, Vail and Avon, to the east end of Glenwood Canyon at the Colorado River.

I have often appeared before committees of the Congress on a broad range of topics ranging from economic warfare, North Korea, nuclear weapons policy and American foreign policy, and have long been active in public affairs and public policy issues, having served in the Nixon and Reagan campaigns and administrations at senior levels. It is somewhat unusual for me to appear before this committee, focused as it is principally on domestic issues.

As a committed mainstream – and by "mainstream" I mean to say "Reagan Republican" – I'm committed to upholding the rights of individual property owners, and am sensitive to and well aware of property rights concerns associated with our nation's railbanking program. However, because others on this panel will address those issues directly, I would like to direct my remarks to four specific points.

First, because I believe in the promotion of our national interest, I suggest to you that we have a distinct national security interest in preserving our nation's built rail-corridor system.

Second, I should like to stress the importance of preserving the famous "Tennessee Pass" rail line, one of only two rail corridors crossing the great Rocky Mountains in Colorado.

Third, I would like to highlight the high level of local support which I believe now exists for preserving the Tennessee Pass by converting it to trail use until such time that it may be needed again for rail service.

Fourth, I gently remind Members of the Committee that our Nation's Railbanking statute was signed into law on March 28, 1993, by President

Ronald Reagan, one of our nation's most determined protectors of property rights.

National Security

I served two presidents and other public officials, and worked and consulted widely with the Congress on national security issues since 1968, when I was the foreign policy coordinator for the 1968 Presidential Campaign of Richard Nixon. As a long-time advocate for a strong national defense, I am very aware of national transportation policies which either advance or detract from national security interests. I should like to state emphatically that our nation's railbanking program strongly supports our national security interests. Eliminating or compromising the railbanking program would compromise our ability to defend the nation in a time of crisis, especially one of extended crisis.

Few individuals may recall that our nation's interstate highway system was first proposed by President Dwight Eisenhower as the National Defense Highway System. It was so proposed because the President and his national defense advisors recognized the strategic importance of developing a well-connected system of highways which could move freight, troops and equipment quickly from one point of the nation to another.

While our nation's rail corridor system was primarily developed by private interests, it is no less important to the strategic protection of our nation in times of war or unrest. Railbanking provides a common-sense way of insuring that the constructed rail-corridor system remains intact even though current economic conditions may make it unprofitable for private rail carriers to maintain the corridors at this time.

Like the National Defense Highway System, few individuals may know that a "National Security Railroad System" map also exists. This map identifies railroads whose preservation is considered essential for national security. The proposed legislation, H-R. 2438, would pre-empt this important strategic system by allowing states, at their own election and without regard to larger national strategic considerations, to make decisions about whether to protect portions of the security railroad system. While it may be unusual to raise national security issues before this particular Committee of the Congress, surely we can all appreciate the long-range importance of these issues. Forewarned is forearmed, and in a period of

prolonged national crisis, it may well be that we shall require railbank portions of our national rail corridor to be reinstated to service.

Tennessee Pass

With the merger of the Union Pacific Railroad and Southern Pacific Railroad, Colorado's great "Tennessee Pass" rail line is now being abandoned. As a property owner with land near this famous rail line, I appreciate the historical importance of this corridor to the development of Leadville and other mineral rich and rural communities located along its 178-mile path. We all marvel at the truly magnificent engineering accomplishments that made possible the development of this corridor. This corridor includes 119 bridges and more that 4,100 feet of tunnels through the formidable Rocky Mountains.

Under current abandonment procedures, unless the corridor is railbanked under the national railbanking statute, all 119 bridges would have to either be dismantled or would represent a perpetual liability to the Union Pacific or the State of Colorado. Similarly, each of the five tunnels would have to be blocked. Obviously, such actions would seriously damage our abilities to quickly reinstate rail-service along the Tennessee Pass line during periods of extended national emergency. Such action would also seriously damage, and most likely eliminate, any likelihood that rail service could ever be reinstated should economic conditions reverse and make passenger or freight rail service once again viable.

Problems associated with the dismantling of bridge and tunnel infrastructure are not unique to the Tennessee Pass rail corridor, but are typical of most rail corridors built through our challenging national terrain.

Local Support

The Tennessee Pass rail corridor passes through four counties and 20 towns between the cities of Canon City and Sage. Since Union Pacific announced its intentions to abandon the line, the State of Colorado has explored every possible option to preserve the corridor intact. In 1996, Colorado State Parks, in cooperation with a corridor partnership of towns and counties, state and federal agencies, and non-profit and community groups, undertook a feasibility study of turning the proposed abandonment into the "Heart of the Rockies Historic Corridor" rail-trail.

After examining several alternatives (including a no-trail alternative), the Feasibility Study Steering Committee -- comprised of local community leaders and state and federal agency staffs -- recommended that the corridor should be railbanked under the federal railbanking statute and converted to trail use.

In developing its recommendations, the committee held public open houses in each of the four corridor counties. Public support at each of these open houses was overwhelming among attendees. The attendees consistently commented it was of utmost importance to preserve the corridor, and that interim trail use was the best solution if rail service would be eliminated. Responses to a Recreation User Survey conducted along the corridor indicated that 85 percent would use the corridor, and 52 percent would use it at least once a week.

Members of seven Chambers of Commerce in the corridor responded to a survey mailed by the Committee, and 94 percent felt a trail would have positive impact on the business community in general in the region. Twenty-two percent of the businesses would also consider developing new commercial enterprises related to use of the trail and 31 percent felt that the trail would directly lead to an increase in their business.

Finally, there are 533 landowners with property adjacent to corridor, and 182 responded to a survey of their interests. While 53 percent registered concerns about privacy, 49 percent nonetheless supported the trail and just 11 percent were unsure. There responses are typical of surveys along proposed rail-trails nationwide, and experience has proven that adjacent property owners generally find that once a trail is in place, these concerns diminish.

On a more personal note, I had the opportunity of discussing the Tennessee Pass rail-corridor the other night meeting with the Mayor of Avon, Colorado -- one of the key communities though which the rail-trail would directly pass. The Mayor of Avon informed me, informally, that among his town council, there is no voice of opposition to the proposed rail-trail or the railbanking of the Tennessee Pass.

President Reagan

Finally, I would suggest to Members of this Committee and the House of Representatives that the railbanking statute was signed into law by

President Reagan during his first term of office. During that period, I am personally aware of the review which every bill forwarded by Congress received prior to its consideration by the President. The Office of Management and Budget routinely reviewed all proposed legislation before forwarding its recommendation to the President to either sign or veto a bill under question. Following OMB's review, President Reagan signed the railbanking statute on March 28, 1983.

I suggest that this committee follow President Reagan's leadership and refrain from weakening or dismantling this important legislation which helps to implement our national policy of preserving our built rail-corridor infrastructure.

Thank you. I would be happy to answer any questions the Members of this Committee might have.

Good morning. My name is William B. Newman, Jr. and I am Vice-President and Washington Counsel for Consolidated Rail Corporation. I appreciate the opportunity to testify today on behalf of Conrail and am here to extol the benefits of the existing Rails-to-Trails program under the National Trails System Act of 1983 (16 U.S.C. 1247(d)).

It is useful in any discussion of the Rails-to-Trails program to review some significant events relevant to the freight transportation marketplace, especially as it pertains to railroads. In the early 1970's, over 20% of our nation's Class I railroads were in bankruptcy. The passage of the Staggers Rail Act in 1980 changed economic regulation for railroads dramatically, giving the freight railroad industry the regulatory flexibility and incentive to be more effective competitors. Since the passage of the Staggers Rail Act, the railroads have significantly improved their economic performance, albeit most railroads, including Conrail, still earn a rate of revenue less than that cost of their capital.

Traffic trends suggest there is every reason to believe that prospects for increased rail traffic are excellent. Intermodal traffic -- the movement of trailers and containers on rail cars -- is growing 7-8% per year. The use of the double-stack -- putting one trailer or container on top another trailer or container -- thereby effectively doubling productivity, albeit with substantial capital costs, is nationwide, moving both domestic and intermodal containers. In 1987, Conrail was the first railroad to move one million trailers and containers in one year and now moves 75% more trailers and containers ten years later. Intermodal and double-stack traffic as well as other increases in the demand for rail services, has come about because improved rail service, better cost control, a shortage of

truck drivers, increased global trade traffic, and growing congestion problems and limited resources to build and maintain the highway network. The increased traffic has put capacity constraints on the railroads at various places, and will continue to in the face of increased freight traffic. Hence, we cannot overstate the importance of preserving future rail capacity when and where feasible.

Nevertheless, Conrail and other rail carriers, continuously seek to become more efficient, not only through improving service, but also by lowering our costs, including the shedding of unnecessary assets. The Class I rail network shrank from roughly 200,000 road miles in 1965 to slightly over half that amount, 105,000, in 1996. Prior to the Staggers Rail Act, abandonments -- the virtually irreversible dismantling of rail corridors -- were the predominant method of disposing of lines. However, in the 1980's, two alternatives to abandonment came into being, both better than abandonment in terms of preserving existing rail service, allowing potential future rail service and improving overall public policy. The first was the development of the shortline sale program wherein uneconomic lines are sold to shortline operators who generally have a lower cost structure than larger railroads, thereby preserving rail service and preserving the underlying rail corridor. There are now approximately 600 shortline railroad operators nationwide and for the over 170 connected to Conrail, they represent in the aggregate, approximately 20% of our business.

But for lines which currently, or even for the foreseeable future, do not offer the promise of viable rail service, the Rails-to-Trails program offers an alternative to abandonments, which would usually result in the dismantling of a given rail corridor to

individual landowners, thus making the corridor virtually impossible to be reconstructed for future use as a rail corridor. The Rails-to-Trails program preserves rail lines by authorizing trail use and rail-banking through agreements with interim trail users made on a voluntary basis, subject to reactivation and interim user assumption of liability in connection with trail use and payment of taxes and without burdening the abandonment process.

Since its inception with the enactment of Section 8(d) of the National Trails System Act of 1983, the nation's efforts to preserves rights-of-way has proved to be a true success story. Congress carefully struck a balance between multiple goals; preserving rail rights-of-way and the rights of railroads to dispose of their property as they see fit, inducing railroads to enter agreements by having the interim trail user assume the tax and legal liability, facilitating the marketing on entire right-of-way segments and the economic development associated with such marketing, allowing for the possible reactivation of the right-of-way by the railroad should demand arise for it, and assuring redress for the rights of adjacent landowners who have compensible property interests in the rights-of-way at issue. We believe that the courts and the Interstate Commerce Commission (predecessor to the Surface Transportation Board (STB) have preserved the balance Congress struck.

In passing the Trails Act, Congress has accommodated the needs of the public in preserving unique rights-of-way for trails purposes and permitting railroads to "bank" such rights-of-way when the rail lines within these corridors no longer made economic sense for the railroad to continue to operate. Pieced together over many years at a time

when land was plentiful and easier to acquire, these corridors would be difficult, if not impossible, to recreate in today's environment. Rather than lose them forever, Congress wisely provided a procedure for railroads wishing to abandon such rail lines to voluntarily agree with potential trail users to preserve these rights-of-way without losing them forever through reversion to a hodgepodge of adjacent owners upon the abandonment of the rail line. Congress nonetheless preserved the opportunity for such property owners to bring claims for compensation under the Tucker Act. Presault v. I.C.C., 494 U.S. 1 (1990).

To date, there have been 123 successful joint railroad-public sector projects to convert approximately 3,400 miles of these rights-of-way into trails, and to bank such corridors for potential future rail use should the need arise. (Indeed, several banked rail lines have in fact been reactivated.) Conrail has successfully completed four Rails-to-Trails transactions totaling almost 100 miles and currently is in negotiation for another 23 corridors, totaling 271 miles. Since the Trails Act unfolded, the ICC has successfully addressed many of the issues related to Rails-to-Trails transactions related to the voluntary nature of the program, deadlines, and reactivation of services so as to make the program more workable.

Conrail believes HR 2438 would eviscerate the Rails-to-Trails program for the following reasons. The repeal of the policy statement, in particular, the repeal of the policy "to preserve established railroad rights-of-way for future reactivation of rail service, to protect rail transportation corridors" and "interim use of any established railroad right-of-way" not being treated as an abandonment, combined with the non-

preemption of state property law in Section (5) is, pun intended, a total abandonment of the policy to preserve rail corridors for interim use with the possibility of reactivation for future rail use. Indeed, the bill is intended to give primacy to the interests of adjacent property owners, but sacrifices the policy of preserving rail rights-of-way and the possible reactivation of rail service in doing so. Since rail corridors are well-nigh impossible to assemble today, we believe it is prudent to protect and perpetuate existing rail corridors, recognizing that railroads are placed in the unenviable position of making decisions on a line's disposition, which decision may ultimately result in mixed public reaction to the disposition. Other sections of HR 2438 are intended to burden or cripple the Rails-to-Trails process by leaving it ambiguous as to who has the liability for taxes on the rights-of-way, the liability for adjacent property owners' interests, and making the Surface Transportation Board process potentially more litigious and extenuated and consequently, less predictable.

In conclusion, Conrail believes the Rails-to-Trails process works well as presently constituted and we would urge Congress not to tinker with it.

Stephen H. Kinsey

My name is Steve Kinsey. I appreciate this opportunity to address you today on behalf of the Marin County Board of Supervisors and as a representative voice for the quarter million residents of my County. The district I serve is vast; comprising almost two thirds of Marin's total acreage, including virtually all of its active agricultural lands and the great majority of its federal parks and recreation areas. It is my privilege to serve such a spectacular and diverse community.

The Marin County Board of Supervisors unanimously supports H.R.1995 because this legislation sets up a voluntary, cost effective, collaboration between Federal and local governments that can help protect our region's agricultural heritage and one of our nation's most popular national parks at the same time. I am pleased to report as well, that my colleagues on the Sonoma County Board of Supervisors, our neighbors immediately to the north, share an equally strong commitment to passage of this bill. Additionally, throughout each of these counties, an overwhelming majority of residents strongly favor the protections that will be provided by this legislation.

H.R.1995 offers real relief for ranching families committed to sustaining their way of life. Farming has never been an easy job. Farming on the urban edge is even more challenging due to the relentless pressure development exerts upon the fertile soil. Like so many ranchers across America, our region's farming families are often land rich and cash poor. This legislation can deliver the vital funds many ranchers need to finance repairs and improvements in their operations, to comply with emerging regulatory requirements, or to diversify into entirely new agricultural venues. In return, the environmental character and productive value of the land can be retained in perpetuity.

I am not standing here today asking the federal government to unilaterally undertake the salvation of our region's agriculture. Marin has a proud 25 year track record of effective innovation that has preserved much of our historic ag lands. We have utilized many tools, including low density zoning, acquisition of conservation easements, and diversification of the industry beyond historic beef and dairy markets in reaching for this goal. Today Marin ranches also produce high quality vegetables, grapes, berries, and even olive oil.

In spite of Marin's historic efforts to protect our agriculture, H.R.1995 is urgently needed to assist ranching families who want to continue their way of life and pass it on to the next generation. Without this program, cash-strapped families will have no other choice except to sell out or develop their property. In fact, for the first time in West Marin history, an application to develop a sprawling 20 unit subdivision on a 1200 acre ag parcel within the proposed Protection Act boundary has been submitted. It is expected to be deemed complete tomorrow, October 31. The proposal reflects the maximum density permitted under Marin's 60 acre per unit zoning. Similar proposals are sure to follow this precedent setting effort, and as each one is submitted, the pressure for adjacent property owners to follow down that path will increase.

It is not Marin's intention that property owners be denied the ability to propose such developments if they desire to do so. However, H.R.1995 offers a voluntary alternative to development. Individual ranchers can decide for themselves whether or not to participate in the program. This is far different than the circumstances an earlier generation of ranchers faced when the Park Service was acquiring lands for Point Reyes National Seashore.

There are other provisions of H.R. 1995 that make it financially attractive. H.R. 1995 requires the local community to continue to invest in protecting agriculture. 50% of the funding for easement purchases must come from non-federal sources. Purchase of

conservation easements, instead of a costlier fee purchase in most instances, will allow more ag lands to be protected for less Federal money. The land will also remain on local property tax rolls, generating important local revenues.

In conclusion, I wish to reiterate my deep gratitude to your committee for holding hearings on this bill. In this era of shrinking government and a renewed commitment to private property rights, H.R. 1995 provides your committee with an innovative opportunity to protect the family farm and our nation's natural treasures without breaking the bank or infringing on an individual's freedom to choose. I urge you to breathe life into this important legislation, adding your own contributions to its innovative structure so that it can serve not only the coast of California, but also as a national model for agriculture on the urban edge.

Testimony of Robert Berner, Executive Director
Marin Agricultural Land Trust
on H.R. 1995
Before the Subcommittee on
National Parks and Public Lands
October 30, 1997

My name is Robert Berner. I am Executive Director of Marin Agricultural Land Trust, a nonprofit organization whose mission is to help preserve productive farmland in Marin County, California.

Farmland makes Marin County one of the most unique and beautiful places in the United States. Agriculture preserved what is now Point Reyes National Seashore from second home, suburban, and commercial development until it was set aside as a national park. Agriculture today serves as the gateway to Point Reyes National Seashore and is an integral part of the values, quality and character that make Point Reyes one of the most visited national parks in the country. These are not hobby farms, but economically viable businesses, many of which have been in the same families for three and four generations.

But farming on the edge of the country's fourth largest metropolitan area brings development pressures and rising land prices that threaten the future of agriculture. When Point Reyes National Seashore was created in 1962, there were three million people in the San Francisco Bay Area. Today there are over six million.

The most pernicious threats to agriculture are insidious and largely invisible. County land-use policy protects against traditional sprawl development with low density zoning (typically 1 unit per 60 acres). The State Williamson Act allows agricultural landowners to be taxed based on agricultural land values rather than market values. But zoning and the Williamson Act do not protect against high agricultural land values driven by the proximity of our agricultural land to the metropolitan Bay Area, or rural sprawl characterized by low-density residential development. The average agricultural property is 600 acres, making it vulnerable under local zoning to subdivision into ten residential parcels.

Land price escalation makes it difficult to keep land in agriculture because of high estate taxes, the difficulty of buying out partners or co-owners, the barrier of high land prices to young farmers, and the lure of an offer that is hard to resist. The threats posed by high land values are compounded when even low-density development transforms neighboring farmers and ranchers into speculators.

For 17 years, MALT has offered agricultural families faced with the need to capitalize some of the value of their land a conservation alternative through the purchase of conservation easements[1]. We have acquired easements on 38 farms and ranches totalling 25,504 acres. The

[1]A conservation easement is a legal agreement by which a landowner places permanent restrictions on the type and amount of development that may take place on his or her land. The easement is recorded, and future owners are bound by its terms. The landowner retains title to the property, and it remains on the tax roll. The grantee of the easement (e.g. MALT) is responsible for seeing that the property owner abides by the terms of the easement.

value of a conservation easement on each property is determined by an independent appraisal, and the terms of each easement are negotiated with the individual landowner. Land subject to a conservation easement remains in private ownership and on the tax rolls.

The purchase of conservation easements has been critical to the survival of agriculture in Marin. Every rancher knows someone who would have been forced to sell their land, or unable to buy land, were it not for the purchase of a conservation easement.

Until now, state and local taxpayers, donors, and grantors have funded this conservation easement program. Fourteen of the conservation easements which MALT holds protect about 11,000 acres within the area proposed for inclusion in H.R. 1995. This represents an investment of $6,800,000. The cost to acquire those easements today would be over $11,000,000.

Because Point Reyes National Seashore is a national asset and its protection and preservation a Federal responsibility, we think it is fair and reasonable for the Federal government to share the cost of protecting the farmland which is so important to the character, quality and environment of this enormously popular park. We do not think it is fair to place the economic burden of protecting these lands solely on the landowners through further downzoning.

We offer to work in partnership with the Federal government to permanently preserve the farmlands within the boundaries of H.R. 1995 through the acquisition of conservation easements in voluntary, compensatory transactions with landowners The land would remain privately owned, privately managed, and on the tax rolls. MALT will help match Federal funds, and will undertake both acquisition and easement monitoring responsibilities entirely at our own expense, at no cost to the Federal government.

H.R. 1995 offers a far sighted, innovative and cost-effective way to preserve productive agricultural lands which are an essential part of the character, quality and environment of one of our greatest national parks. By using conservation easements rather than fee purchases, at least 50% of the initial acquisition costs will be saved. By using the experience, expertise and good will of a self-supporting local land trust, the government will be free of the burdens and costs of managing acquisitions and conducting easement monitoring.

Thank you.

Testimony of Sharon Doughty
on H.R. 1995
Before the Subcommittee on National
Parks and Public Lands
House Committee on National Resources
October 31, 1997

My name is Sharon Mendoza Doughty. I am a lifetime registered Republican and a third-generation dairyman who was raised on the "Historic B Ranch," which is now part of the Point Reyes National Seashore. My family owned four ranches, totaling 5,000 acres, which became part of the Point Reyes National Seashore when it was authorized in 1962. My father and brother still operate a dairy on this land under a reservation of use and occupancy within the National Park Service.

After college, I married a local dairyman and in 1973 moved to a 773-acre dairy on the east side of Tomales Bay across from Point Reyes National Seashore. This land is within the area proposed to be included in The Pt. Reyes National Seashore Farmland Protection Act. Since being widowed in 1984, I have continued to operate this dairy. We milk 300 cows twice daily, producing 2500 gallons of milk per day which, along with fifty other dairies in Marin County, provide 25% of the milk for the San Francisco metropolitan area.

These dairies are family farms, many of which date back to the mid 1880's, made viable by 10-hour days and often 7-day weeks. My ranch provides jobs for more than six families and income for our numerous suppliers and their employees, benefiting the economy of the entire surrounding area. This farmland is also compatible with and helps protect the character and quality of the Seashore.

My family and I are committed to agriculture. It is hard work, but it is what we know and love. Although it was certainly not our purpose, for the past thirty years agriculture has also preserved the east shore of Tomales Bay from development (second-home, suburban and commercial) that would otherwise destroy the extraordinary pristine quality of the Bay and the integrity and character of Point Reyes National Seashore.

As an active participant in the agricultural community, I am a twenty-plus year member of the Marin County Farm Bureau, as well as Western-United Dairymen. In 1994, Governor Pete Wilson appointed me to the California Coastal Commission, where I served for two-years. In 1986, The Marin County Board of Supervisors appointed me to the 15 member board of the Marin Agricultural Land Trust, where I served for nine-years - I was Chairman of the Board for two years, as well as, Chairman of the Agricultural Committee for several other years.

Marin Agricultural Land Trust has done a tremendous job of providing agricultural landowners with a conservation alternative to sale or development. MALT's purchase of conservation easements has helped solve many of the problems faced by farmers today, and MALT has become a crucial factor in the expectation that there can be a long-term future for agriculture in Marin County. But MALT is a private organization whose limited resources are insufficient to meet the constantly growing threats to agriculture.

MALT's nationally recognized program, highly respected by farmer and non-farmer alike, has successfully purchased easements on 25,504 acres of the 150,000 acres critical to Marin's agriculture industry. In the past to fund MALT's easement program, we have used money from a local foundation, California Coastal Conservancy, as well as $ 15 million from State Proposition 70. There is still a long list of property owners interested in selling conservation easements on their land. We have tried twice within the County and another State Proposition to obtain more funds, but failed narrowly the 2/3 vote required.

Because of the popularity of the Point Reyes National Seashore with people throughout the United States, the concept was developed that this openspace along Tomales Bay deserves national support. I was not especially enthusiastic about this idea in the beginning, we certainly do not need more land in public ownership in Marin County, and I had many questions concerning accessibility, funding and administration. In the past three years, Lynn Woolsey has closely listened to all the property owners and sincerely tried to address their concerns, while protecting the investment for the people of the entire United States. In its form today, I am now in full support of H.R. 1995.

Participation in The Farmland Protection Act is voluntary as is MALT's program. The bill ensures that the private property rights of the landowners are fully protected. The Farmland Protection Act makes clear that private lands, including lands currently subject to conservation easements held by MALT or other nonprofits will not be subject to any restrictions as a result of this bill, and that these nonprofits will continue to hold the easements they own.

No new authority to regulate private lands is granted in the legislation. If and when the federal government purchases a conservation easement, the conservation easement protects the landowner. The conservation easements acquired as a result of this Act will expressly permit hunting, predator control and the use of lawful pesticides, just as MALT easements do. MALT is specified in the bill to manage and monitor these easements.

The Farmland Protection Act will protect our pastoral land by preserving the historic agricultural land uses, primarily by maintaining the land in private ownership restricted through agricultural conservation easements. The moneys received from these easements, will supply much needed money to farmers - to diversify, to pay inheritance taxes, to purchase additional lands, and/or to buy out co-owners.

My 773-acre property is very desirable for development. We are only two miles north of the village of Point Reyes Station, and have beautiful views of Tomales Bay and the Inverness Ridge. We are reminded of how desirable this property is each week-end by the guests of our Bed and Breakfast. However, I prefer to have the option to sell a conservation easement on this productive land, for me and my heirs to continue our stewardship of it in agriculture. We have planted five-acres of vineyards in an effort to diversify for viability. The money we could receive from The Farmland Protection Act would help us to buy more land for vineyards or build a winery or a creamery for a cheese operation without incurring heavy debt. We have four adult children who are very interested in continuing as agricultural operators. Upon my death, these funds would also help to supplement my life insurance and pay my heirs' estate taxes; so that my children would not be forced to sell the land.

Because of the positive experience that my family has had as tenants of the National Park Service, I would willingly enter into an agreement to sell my conservation easements to the National Park Service. For over 25 years, the tenants of the National Park Service within the Point Reyes National Seashore, have enjoyed a positive relationship. These tenants have together signed a petition, which I am submitting as part of my testimony today, to substantiate this relationship. It reads "We, the undersigned ranchers and residents of the Point Reyes National Seashore, wish to dispel certain misinformation about our relationship with the Seashore. In particular, we would like it to be publicly known that our relationship with the National Park Service has been generally harmonious."

Thank you very much for the opportunity to testify here today in support of HR1995.

DECLARATION

We, the undersigned ranchers and residents of the Point Reyes National Seashore, wish to dispel certain misinformation about our relationship with the Seashore. In particular, we would like it to be publicly known that our relationship with the National Park Service has been generally harmonious.

	SIGNATURE	PRINT NAME & ADDRESS	DATE
1-	Alfredo Grossi	2575 Pierce Pt. Rd	5-12-97
2-	David A. Evans	2545 Pierce Pt. Rd	5-12-97
3-	Vivian Hall Hovick	22615 Sir Fr. Drake Blvd.	5-16-97
4-	Tim E. Nunes	26450 SFD. BLVD POINT REYES	5/26/97
5-	Richard J Vellegia	10900 Pt-Reyes Pet Road Inverness	5/30/97
6-	Jerry F. Gallagher	10900 Petaluma Point Reyes R.D. Inverness	5/30/97
7-	Bob Evans	14200 S. Pt. Rd Pt. Reyes	~~5-16-97~~
8	Ralph Giacomini	Box 133 Olema	6.'97

DECLARATION

We, the undersigned ranchers and residents of the Point Reyes National Seashore, wish to dispel certain misinformation about our relationship with the Seashore. In particular, we would like it to be publicly known that our relationship with the National Park Service has been generally harmonious.

SIGNATURE	PRINT NAME & ADDRESS	DATE
	Donald J McIsaac, PO Box 1, Olema, Calif 94950	7/29/97
	Jo Ann Stewart P.O. Box 130, Olema 94950	7/29/97
	Ted McIsaac P.O. Box 155 Pt. Reyes Sta.	8/12/97
	James Pat Martin P.O. Box 118 Olema	8-12-97
	Barbara Hall 516 Lansdown Circle Fairfax Park	8-13-97
	Boyd Stewart P.O. Box 130 Olema 94950	8/13/97
	Clarence R Rogers P.O. Box 126 Olema 94950	8-25-97
	EARL L. LUPTON P.O. BOX 85 OLEMA, CA 94950	8-28-97
	William E. Niman PO Box 369 Bolinas, Ca. 94924	
	HAROLD F. GENTILI PO Box 815 Pt. Reyes Sta, CA 94956	
	James McFadden PO Box 61 Pt Reyes Sta. CA 94956	
	VIRGINIA McFADDEN P.O. Box 61 Pt Reyes Sta CA 94956	

We, the undersigned ranchers and residents of the Point Reyes National Seashore, wish to dispel certain misinformation about our relationship with the Seashore. In particular, we would like it to be publicly known that our relationship with the National Park Service has been generally harmonious.

	SIGNATURE	PRINT NAME & ADDRESS	DATE
1-	Leland S Kenneth Jr	Home Ranch 16375 Sir Francis Drake	May 6, 1997
2-	J.W. Ogden Dolores	L Ranch 100 Pierce Point Road	May 6, 1997
3-	Ernest & Nichola Dolcini	"C" Ranch 22,000 Sir Francis Drake Blvd.	May 6, 1997
4-	Joe & Holly Mendoza	Jr. B Ranch 25660 Sir Francis Drake Blvd	May 7, 1997
5-	Domingo Roger	16484 Sir Francis	May 7, 1997
6-	Kevin J. Kehoe	6150 Pierce Pt Rd. Inverness Ca.	May 7, 1997
7-	Michael P Kehoe	6150 Pierce Pt. Rd Inverness Ca.	May 7, 1997
8-	Robert J Kehoe	4101 Pierce Pt Rd Inverness CA	May 7 1997
9-	Kevin J. Kehoe	6150 Pierce Pt. Rd. Inverness Ca.	May 7, 1997
10-	Richard Grossi	15020 Sir Francis Drake Inverness Ca	MAY 7, 1997
11-	Joe & Linda Mendoza Jr.	P Ptny B Ranch 25660 Sir Francis Drake Ca	May 8, 1997
12-	George + Betty Nunes	26450 San Francis Drake Bl Pt Reyes CA 94956	May 12, 1997

My name is Martin Pozzi and I am a 5th generation rancher in the Sonoma. Marin area. I have come to testify for this committee representing Cattlemen's Association and as a landowner. Ms. Woolsey, my congresswoman has introduced legislation which will make my ranch part of the Pt. Reyes National Seashore. I first learned about this legislation as a board member of the Marin Agricultural Land Trust. It was described to me as a funding mechanism for MALT. I was thankful there was a solution to MALT's lack of funding, as the public has not passed any of the funding measures that we have proposed. Then a small article in the newspaper stated that this was park expansion legislation. I was curious so I read the legislation. Not only was this park expansion, it included my land. She had introduced the legislation in the 103rd Congress without even telling the landowners, and was proposing to introduce it in the 104th Congress. Congresswoman Woolsey held meetings where I, as President of the Marin County Farm Bureau, by direction of my board, indicated that the legislation was unacceptable to the majority of landowners and the agricultural community. She requested that I work with her staff to make it something that could be supported by the agricultural community. The major concerns were: the park boundary, private property rights, and a lack of funding. After our meeting Lynn sent a letter to all the landowners stating that we had met and all of our concerns had been met. She has made changes but the main concerns still remain. She continued to give assurances that she would not move forward on the legislation without landowners and Farm Bureau support. We have indicated overwhelming opposition from the landowners as well as from the agricultural organizations. In March of this year she held a town meeting in Tomales to explain the legislation and stated that she would be introducing the legislation in this 105th congress.

The last time similar legislation was introduced the landowners were not notified. A witness testified that landowners were in favor of our land being included in a national park. As Mrs. Coletti will testify, we have letters from the overwhelming majority of landowners, indicating opposition to their land being included in the Pt. Reyes National Seashore. My favorite quote from Mrs. Woolsey's news article was "Once Ranchers Understand It They'll Back it". The truth is once ranchers read the legislation, they oppose it.

My family sold an agricultural conservation easement to the local Marin Agricultural Land Trust, called MALT, the organization that this legislation was modeled after. My 8 siblings and father, all co-owners of the ranch, committed to limiting the use of our ranch to agriculture. The proceeds from MALT were used to purchase a neighboring ranch to expand our agricultural holdings making room for my brother and myself to have agricultural operations. We support the use of voluntary agricultural conservation easements as a tool for preservation of agricultural lands. Our ranch will never be developed. If this legislation is passed our ranch will become park land without compensation. We have been good stewards of the land and have even committed to limiting the use of our land in perpetuity. Now we will be penalized by having it become park land which will jeopardize the one use we were trying to protect it for. This is instant creation of park without compensation.

The creation of the Pt. Reyes National Seashore and acquisition of land from the owners has happened in my lifetime. I have known families that owned the original park land well. I have been aware of what happened to most of the 27 original dairies and numerous ranching operations which are all now park. Although the original legislation was supposed to protect landowners of more than 500 acres in active agriculture, not one acre is still privately owned. Numerous landowners tried unsuccessfully to stop this from happening. Some is recorded in lawsuits, others have had to fight in more silent ways. There was removal of ag buildings, and historic residences at the whim of the Park Service. Uses were changed, wilderness areas established, species incompatible with agriculture were re-introduced. Original promises were broken, parts of the legislation protecting landowners were repealed. All of this has added to the demise of agriculture.

Correspondence from the author, her staff, and her experts claims, that "the program is completely voluntary". You are the Parks committee. The legislation states SEC.3. **ADDITION OF FARMLAND**

PROTECTION AREA TO POINT REYES NATIONAL SEASHORE...(a)ADDITION. Section 2 of the Act entitled "An Act to establish the Point Reyes National Seashore in the State of California, and for other purposes" **is amended** by adding at the end the following:"(c) **The Point Reyes National Seashore shall also include the Farmland Protection Area**"" This is not voluntary. Our land and agricultural operations will be affected by becoming park land. If nothing else, it will be appear as park land on the Triple A map. We will once again be cheated for funding for our schools, by legislation from a pro education legislator. And most critical, we will have to battle the Park Service on agricultural issues.

The language states that the purpose of this bill is to preserve productive long-term agriculture in Marin and Sonoma Counties. Ms. Woolsey may have experience as she claims in many areas, but I don't have any knowledge of her expertise in agriculture. The agriculture experts have openly stated that this will not preserve agriculture and the largest agricultural organizations in the world are very distressed with Ms. Woolsey's thinly veiled attempt to use agriculture for park expansion. As Bob Vice president of California Farm Bureau Federation wrote to her "you do not preserve farm and ranch land by making it part of the park system."

The sheep industry in our counties have indicated that predators are the number one enemy to the industry. They have fought hard for Animal Damage Control funding, to control the coyote population. Not only has the Park Service been a poor ag landlord, it has been a horrible neighbor agriculturally to the sheep industry by providing and encouraging the breeding program of the "prairie wolf' as they call it. They are even wasting tax dollars studying how to maintain a coyote population with 6 million visitors to the park every year. These animals adapt beautifully, they live in downtown Los Angeles. I can tell you don't need to spend tax dollars studying it!

The Department of Interior has a notorious reputation and history of eliminating productive agricultural operations as well as grandiose ideas and no pocketbook to support them. Our agricultural operations are more threatened by the expansion of the park than by development. The land is already extremely limited by current zoning, the California Coastal Commission, Gulf of Farrallones National Marine Sanctuary, Land Trusts, Williamson Act, and Marin and Sonoma County Planning departments. If the intent is truly for preserving agricultural lands why are they including land which is already preserved for agriculture. It comes down to park expansion. This will lead to demise of agriculture and other profitable entities.

I believe the public, your constituents, want to preserve agricultural land and are reluctant to pay for the expansion of park land. This land has been so well cared for that the Department of Interior describes it as pristine and wants it as a national treasure. I believe that the opportunity to do what Mrs. Woolsey describes as the voluntary use of conservation easements to protect this agricultural land with willing landowners can and should be accomplished. Let's reward these landowners on an incentive voluntary basis. I propose increased funding in the Department of Agriculture Conservation Easement Program so the use of voluntary easements can be accomplished. This is the Department of our government with expertise in Agriculture and should be responsible for the easements, not the Department of Interior which specializes in parks.

I have worked my whole life on my family's 1200 acre ranch. We had a dairy until the late 1970's and since have raised sheep and beef cattle. I supported my younger siblings with my ranch operation enabling them to attend college, all 9 of us graduated. My wife and I have a 2 year old daughter who spends time with us on the ranch and loves it as much as we do. We have a 4 month old son and almost named him Park Pozzi because this issue has taken so much of our lives. My children are the 6th generation in my family in this area in agriculture. I want to ensure that my children will be able to continue my agricultural heritage. Ever since 3rd grade I knew I wanted to be a rancher. I continually worked towards that end goal, getting my college degree in Animal Science with a minor in Business, and being active in agricultural organizations.

I hope you see that there is a better, truly voluntary, way to preserve this agricultural land. Please do not include this land in a national park. Thank you for allowing me to testify.

My name is Mary Coletti. My family has been ranching our land for five generations. This same land is being left in trust to our children who plan to continue our ranching operation.

I have been to numerous meetings concerning this 38,000 acre park expansion bill. I have witnessed overwhelming landowner opposition, and, very little landowner support.(as the map illustrates). In addition, opposition to the park expansion bill, has been expressed by the farm groups, and the taxpayers organizations. (see packet)

Somehow our concerns are not being heard so I helped form "Citizens for Protecting Farmland ". Our purpose is to educate the public and our legislators as to the facts of this bill, and reiterate our concerns and opposition to this bill. A packet was prepared which I am sure you have all had the opportunity to review. If you did not receive one, please let me know. We are a group of landowners within the proposed park boundary representing over 22,000 acres opposed to the bill. 5700 additional acres have serious concerns, but are leery of speaking out.

Of the 38,000 acres, over 27,000 acres are protected from development by the Williamson Act; over 11,500 acres are protected by the Marin County Agricultural Land Trust (MALT) and the Sonoma County Agriculture Preservation Trust (SALT); more is protected by government ownership.(as the map illustrates)

Of the 38,000 acres, all development rights are protected by stringent local laws and zonings which have been in effect for 25 years; 120 acres per dwelling in Sonoma, and 60 acres per dwelling in Marin. If protected by MALT, SALT, or the Williamson Act, the development rights are even more restrictive.(as the map illustrates)

Because of all of the above very few building permits have been issued over the past 10-15 years, further testimony that there is no push for development, or a need for this bill. These are family farms that have been in operation since the 1800's.

HR 1135 and HR 1997 is not the first time that farm land has been included within the Point Reyes National Seashore park boundary. Farmers fought to save their land from becoming park land in the 1960's and 1970's, and now, none of that land is privately owned.

Congresswoman Woolsey, if you are concerned about preserving farmland, as the title of your legislation implies, I would strongly encourage you, with Congress's help to increase funding for the USDA Conservation Easement Program and include our area as one to receive the funds to purchase easements in Sonoma and Marin Counties. This would allow funding for anyone that would like to sell their easements to their land without the expansion of the Point Reyes National Seashore Park, and creating a "Public/Private" partnership or a "Local/Federal" partnership. This would not place an involuntary park boundary over our land. We are the best stewards of our land. Keeping the agricultural easements under the Department of the Agriculture, not the Department of Interior as part of a park, will help the farmers the most in the long run as history has shown.

The large map illustrates the landowner opposition to this park expansion. All of the maps illustrate the lack of need for such a bill to prevent development. Please help my family, and the families of the other farmers who want to continue to ranch without being included within the Point Reyes National Seashore Park boundary. Having a park boundary over our land is not voluntary and is a waste of the taxpayers money.

Thank you for listening to my concerns,

Mary Blanchard Coletti

Mary Coletti/ Elizabeth Hanlein
trustees, landowners, and taxpayers
property address: 2799 Dillons Beach Road
home: 1286 S.E. 38th
Hillsboro, Oregon 97123
503-648-1399
fax 503-648-9249

My name is Donna Furlong. I have been ranching for most of my adult life. After my husband passed away, I continued the family business of raising beef cattle and sheep because I wanted to pass the family tradition on to my four sons and my grandchildren. I am here today as a landowner who will be affected and also as a representative of the California Wool Growers Association.

You all received a letter from the California Wool Growers and I have a copy for you today. I would like to read an excerpt of that letter.

> "The California Wool Growers Association opposes H.R. 1135 and H.R. 1995 which would expand the Point Reyes National Seashore."
>
> "Both of the respective bills are misleading in title and summary. While the author claims to be giving the Secretary of ~~**Agriculture**~~ ***Interior*** the authority and appropriations for farmland "conservation easements" it is clear that this is nothing more than a park expansion bill. And while the author insists that the bill is intended to preserve farmland it does nothing more than create public access to what is now private farmland at the expense of taxpayers, local farmers and ranchers."

Most of the people I know want to preserve this farmland for future generations. They do not disagree with conservation easements, but do not want to be included within a park boundary. This has been touted as a "buffer zone" for the park. The bay is already a natural buffer zone. Parkland means public access and public access means lots of headaches for a rancher.

This bill, in the beginning, offered assurances that no public trails could be put through the properties involved. This was taken out. This is a grave concern of mine. The general public will not honor a fence and once they enter your property, even though they have no right whatsoever to be there, they want you to be responsible for their actions. What if my bull doesn't like their looks?

My main concern is funding. This bill is on a matching fund basis. Marin County does not have a sales tax to fund open space and conservation easements. Marin County tax payers voted down Measure A" last November which would have provided the Marin Agricultural Land Trust with money to fund conservation easements. The voters of California turned down "Cal Paw '94" which would have provided the Marin Agricultural Land Trust with money. The voters have said they do not want to fund more park and so where will Marin County get the matching funds? The only matching funds Marin County has is around fifteen million dollars. Fifteen million dollars is not enough to purchase conservation easements in the boundary. Before such a bill is

ever considered, there should be enough funds available for just compensation for all properties within the area. You should not put a boundary around land and then decide what just compensation is and where the money will come from. A licensed appraiser has told me that being in a park boundary cannot help but lower property values.

Most people in agriculture want to continue, but it has to be viable. If you are truly interested in saving ag, help us with the bottom line, don't put a boundary around us. We are the only industry that can't say it costs so much to produce our product and we need a certain percent mark up added to that, which is what the customer has to pay.

If I put an easement on my property and you allow predators to run amok as they do in the park, and I can no longer raise livestock...what do I do? Sit and look at the beautiful view of the ocean.

I feel that this bill not only takes away my property rights without just compensation, it also infringes on my right to pass on to my children and grandchildren, a family tradition. My property rights have already been infringed on by the Coastal Commission, the Planning Department and the Gulf of Farallones National Marine Sanctuary.

Please do not consider this bill.

Donna L Furlong

Donna Furlong
October 28, 1997
Revised 11/4/97

Good morning Congress and the American people.

My name is Judy Borello and I own an 864 acre ranch within the proposed Farmland Protection Act. My reasons for opposing this bill are as follows:

1. Two-thirds of the ranchers within the "proposed" boundary, do not want the supposed protection this bill would afford them; the taking and reduction of their land use rights.

2. In 1972, we could build a house on every two acres; then we the ranchers, were rezoned one house every 60 acres. A devaluation of thirty times our property value. Right after "the Great Devaluation" took place, 95 percent of the ranchers joined a state program called "the Williamson Act." For a substantial reduction in their taxes, the ranchers opt to not develop, leaving their ranch land in open space for the next 10 years. The programs automatically self-renews itself for 10 years daily.

On top of these two layers of protection, 40 percent of the 38,000 acres within the proposed boundary has been purchased by the Marin Agricultural Land Trust, which is referred to as M.A.L.T. This means that even though the development rights cannot be used under Williamson Act, they are now permanently extinguished under the right to purchase a M.A.L.T. easement.

To add to all of this "already" protection, the land on the East short of Tomales Bay, which is the land in question in this bill, is very scarce on water due to the fact that our land is geologically referred to as Franciscan formation, which is known for its low-bearing and inadequate for water bearing supply. Reference to U.S. G.S. Water Supply Paper 1427-Geology and Groundwater in Sonoma and Marin Counties.

Summing all of this up and based on a logical conclusion - do we need to spend the hard earned tax dollar of the American people to purchase what is already protected?

There is 80,000 acres of Parkland already purchased and can't be fully maintained because of a lack of funding. So why purchase more? In fact, over 50 percent of our Marin County is off the private tax rolls and either in states, federal or county parks or open space districts.

My ranch is being lethally effected by this bill because:

1. My late husband Robert Borello, who met an untimely death due to a car accident in October of 1992, was a past president of Farm Bureau and one of the longest-serving directors in past history: He was a staunch believer in retaining agricultural land values and property rights. He opted not to put Borello Ranch under Williamson Act believing that if you take the government carrot, you get the governmental noose.

He kept his development rights in tact by paying full taxes, developed a thriving rock quarry, and septic pounds for the West Marin County community and parts of Sonoma County.

He developed large dams on the property, one of which is over 40 acres feet and spring-fed, never losing half of its capacity.

His hard work, foresight, and determination created these assets and now with this "Farmland Protection Act" on a seemingly not well-hidden park bill, I stand to lose a lot as well as my neighbors.

The quarry has been idle since Robert's death. Three quarry outfits have wanted to lease it, but when faced with the pending "Park Bill" have backed off watching to see what happens.

On November 17th the quarry will be reviewed by the state board on mining and there is a chance the quarry could be closed permanently because "idle" position is granted for only so long of a time.

Due to this five year fracas over this Park Bill, let alone if it passed, I stand to lose a substantial amount of money, while it also clouds the title to sell it.

I believe that my fellow ranchers and myself deserve a lot better than this. I would like to see agricultural easements available to ranchers, but not at the expense of forcing the many into park while a few "gain" a deal.

It's very funny to me that the agriculturalist themselves including the ag experts in this field say "They don't want it." It's not protecting them when in fact it weakens them, but the politically non-savvy, non-agriculturally knowledged people will tell a rancher what's right for him and force it upon him while portraying to the public "How they saved agriculture!"

I know that the Democrats and Republicans have come together over fiscal responsibility issues and I hope that this committee will see the wisdom of not wasting tax payers money on this faulty bill.

Perhaps if the bill guaranteed the rancher the right to be fully compensated for his land as in the original Park Bill, it would have a chance, but not this forced boundary with limited compensation.

Thank you for allowing me the time to speak on this issue.

Judy Borello

P.S. Many politicians and environmentalist lust after our privately-owned lands; they refer to it as their sacred "veiwshed."

Don't try to take it from us with this cheap shot "Farm Land Protection Act" bill, after all, I believe there is still a commandment saying "Thou Shalt Not Steal."

THE BORELLO RANCH & QUARRY
Post Office Box 340
Point Reyes Station
CA 94956

415 · 663 · 8333

June 20, 1997

Congressman James V. Hansen
Chair: Subcom. National Parks & Public Lands
2466 Rayburn House Office Bldg.
Washington, DC 20515

Subject: Point Reyes Farmland Protection Act 1997
Congresswoman Lynn Woolsey, Sponsor

Dear Congressman Hansen:

The last time this proposed legislation was presented to your committee in 1994 it was referred to as the Point Reyes National Seashore Protection Act. Now it is called a "Farmland Protection Act" (see attached May 16, 1997 article). To us ranchers affected by the act, it is the same wolf now in sheep's clothing: an under funded attempt to expand the boundary of the Point Reyes National Seashore without compensating the land owners within that boundary.

"Farmland Protection" per se in this specific area is unnecessary ! Most of the land inside the boundary is already protected by The State of California Williamson Act, existing strict Marin County 60 acre minimum zoning (AZ-60), and the California Coastal Commission. In addition "development" (condos, housing tracts, etc.), which is claimed to be the present threat to this farmland, requires substantial amounts of potable water. Such adequate water supplies are simply non-existant in the 30,000 acre boundary area. The proposed act in reality is an attempt to preserve the view shed of an elite minority none of whom are Ranchers &/or Farmers !

Most of us within the boundary who are Ranchers and Farmers have been opposed to this oppresive legislation since Cong. Woolsey first pulled it out of her hat. I quote from a letter sent to Cong. Pombo of your committee in August 1995. It was signed by over 60 individuals, many of whom are Ranchers !

"When the federal government passes legislation to establish boundaries for a park, wildlife refuge or preserve of any kind, it gives a loud and clear resounding signal to everyone that it clearly intends to purchase the lands within those designated boundaries... although no money is appropriated for acquisition.

Continued....

This boundary legislation as proposed will cast a "cloud" over all the properties inside that boundary. Property ownership within the boundary will be paralyzed since the ability to use or transfer land would be seriously hindered by the federal presence. Who logically would spend time, effort, and money to purchase and improve property if it ultimately will be taken by the federal government ? The answer is: no one ! Therefore, this proposed boundary legislation would definitely restrict property rights ! ! !"

On behalf of myself and my many rancher friends I send this letter and collection of clippings and letters going back several years. The newspaper articles clearly indicate the opposition of the ranching community within the proposed boundary to Cong. Woolsey's "Farmland Protection Act".

It is an just one more attempt to condemn our land without adequate compensation !

Under our U.S Constitution, this is not right !

Judy Borello

Judy Borello, Rancher

Copies to Congresspersons:

Gallegly	Radanovich
Duncan	Jones
Hefley	Shadegg
Gilchrest	Ensign
Pombo	R. Smith
Chenoweth	Hill
L. Smith	Gibbons

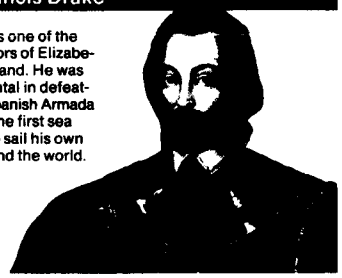
Don Young

Land and Sea

The story of Point Reyes is a study in motion—slow, continental transformations and sudden, violent jolts that shake the Earth; the rhythmic play of sea-spray along the coast; wings of birds flashing in flight; drifting shrouds of mist and fog; grazing deer who occasionally follow your movements with soft eyes; migrating whales offshore; and the ebb and flow of Pacific tides. Point Reyes is also the story of the Coast Miwok Indians, English and Spanish explorers, the Mexican "lords of Point Reyes," and 20th-century dairy farmers. The land and its inhabitants have created a legacy for all.

The Point Reyes Peninsula has long baffled geologists. Why should the rocks of this craggy coast match those of the Tehachapi Mountains, more than 310 miles to the south? The answer lies in plate tectonics: the constant motion of the Earth's crust. The peninsula rides high on the eastern edge of the Pacific plate, which creeps northwestward about two inches a year. The slower-moving North American plate travels westward. In Olema Valley, near park headquarters, the North American and Pacific plates grind together along the San Andreas Fault Zone. This fault zone contains many large and small faults running parallel and at odd angles to one another. Because each plate cannot move freely, tremendous pressures build up. From time to time this pressure becomes too great, the underlying rock breaks loose, and the surface actually moves. This is what happened in the San Francisco Earthquake of 1906 when the peninsula leaped 20 feet northwestward. As if to accent the geological separation along the San Andreas Fault, the weather may vary quite markedly on both sides of Inverness Ridge. A succession of summer days on the east side may be warm and sunny, while on the ocean side, a chilling fog may hide the sun.

Sir Francis Drake



Drake was one of the great sailors of Elizabethan England. He was instrumental in defeating the Spanish Armada and was the first sea captain to sail his own ship around the world.

The moderate climate, the fertility of the land, and its nearness to the sea made it attractive to human beings from very early days. The Miwoks, a peaceful people, harvested acorns and berries, caught salmon and shellfish, and hunted deer and elk. In the summer of 1579, Francis Drake, an English adventurer in the service of Queen Elizabeth I of England, appeared offshore in his ship, the *Golden Hind.* Evidence indicates that Drake careened his ship in Drakes Estero to make repairs, staying for about five weeks. The Miwoks supplemented the Englishmen's rations with boiled fish and meal ground from wild roots. Wandering inland Drake's crew sighted herds of deer and one of them noted a landscape "farre different from the shoare, a goodly country, and fruitfull soyle, stored with many blessings fit for the use of man." Before the *Golden Hind* sailed westward across the Pacific on its round

the world voyage Drake named this land Nova Albion, meaning New England. He doubtless noted a resembiance to the Dover coast on his own English Channel.

Explorers from the outside world came and went. In 1595, Sebastian Rodriguez Cermeno's ship the *San Agustin* was wrecked in a storm that drove the ship upon the coast; several crewmen were lost. Stranded on the beach, Cermeno and the survivors built a small launch to carry them to Mexico. Since that time, porcelain pieces, believed to have come from the ship's cargo of Ming china, have turned up in excavations of various Miwok Indian sites.

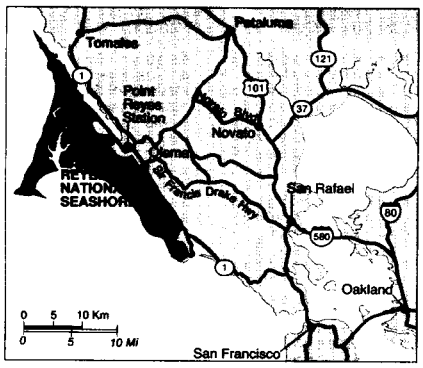
It was a Spanish explorer, Don Sebastian Vizcaino, who gave Point Reyes its name on January 6, 1603. Vizcaino, sailing north out of Monterey to explore the California coast, was buffeted by fierce winds during a one-day stormy anchorage in Drakes Bay. Turning back to sea, Vizcaino sailed past the rocky headlands that he named La Punta de Los Reyes, for this was the Feast of the Three Kings.

Red-tailed hawk
illustration by John Dawson

After Drake's visit, almost 200 years passed before settlers began to arrive. Indeed, San Francisco Bay, one of the world's great natural harbors, was not discovered by Europeans until 1769 when an overland expedition of Spanish explorers reached it. Mariners had repeatedly overlooked the narrow entrance to the bay in the seemingly smooth coastline.

Under increasing contact with the outside world and new ideas, the settlers of California and Mexico revolted against the Spanish government and in 1821 established an independent Republic of Mexico. During the years of Spanish rule, the Miwoks had been taken from their homelands to labor in Spanish missions. Except for a few who managed to evade the missionaries, and some survivors of the missions who wandered back after the Mexican revolution, Point Reyes had seen the last of its original inhabitants.

During Mexican rule three "Lords of Point Reyes"—James Berry, Rafael Garcia, and Antonio Osio—held the entire peninsula through land grants. After the United States conquest of California, Point Reyes ended up in the hands of a San Francisco law firm. The land was then broken into dozens of dairy ranches controlled by the senior partners of the firm. Beef and dairy cattle have roamed the brushy flatlands of Point Reyes ever since.



Getting There Calif. 1 provides direct access from the north and the south. It is a scenic, winding road; U.S. 101, further east, is a freeway. East-west roads connect these two highways. Limited public transportation is available; call 415-332-6100 for a schedule.

Administration Point Reyes National Seashore is administered by the National Park Service, U.S. Department of the Interior. Questions can be addressed to: Superintendent, Point Reyes National Seashore, Point Reyes Station, CA 94956.

Hiking the Trails

Besides the interesting points in the park accessible by car and short walks, there are many others that we hope you will have the thrill of discovering for yourself. They are here to see, to touch, to photograph, to enjoy. To become fully acquainted with the park, leave the roads and spend a day of exploration on foot. You may discover Arch Rock, where the Bear Valley trail ends and view the waters of Drakes Bay.

Three types of terrain distinguish the trail systems of Point Reyes: the pasture lands of Pierce Point and the Estero; the chaparral ridges and California-laurel valleys to the east and west of Limantour Road; and the forests and meadowlands in the southeastern end of the park. Certain trails may not be currently maintained. Check conditions at the visitor center. Trail maps are available at all park visitor centers.

As you hike use common sense and keep the following **precautions** in mind. Bring your own supply of water; stream water is not safe to drink. Backpackers especially should be prepared for fog, cold, and wind in July as well as in December. The waters at lakes and bay beaches are inviting after a warm hike; enter unknown waters with caution. Slopes and valley bottoms are usually covered with tall, dense brush, much of it poison oak and stinging nettles. Staying on the trail will help you avoid getting lost, injured, or itchy. And it will keep you away from the edges of the steep cliffs, for they are likely to crumble and slide, if you get too close. Climbing on the cliffs or walking near the edge invites catastrophe. Check tide tables before walking on the beaches; you could be trapped. Stay away from cliff bases because of falling rocks.

Bicycles are prohibited within the wilderness areas. Bicyclists, pet owners, and horseback riders should check at a visitor center for information about trail use and restrictions.

Lyme disease is caused by a bacterium and is transmitted by ticks found at Point Reyes. If you feel you have been exposed, contact a physician.

☆ GPO: 1994—301-085/00077 Reprint 1994

The best place to begin your visit is Bear Valley. From Calif. 1 at Olema, a one-minute drive brings you to park headquarters. As you turn onto the entrance, you will cross the San Andreas Fault Zone. At the visitor center you will find an extensive display of exhibits, specimens, and artifacts. Other points of interest are the Earthquake Trail, a 0.7-mile walk along the San Andreas Fault, a 0.7mile self-guided Woodpecker Nature Trail, the Morgan Horse Ranch, and Kule Loklo, a replica of a Coast Miwok Indian village.

Bear Valley Visitor Center to Limantour Beach The impact of Point Reyes is most dramatic at the meeting of land and sea. Many such areas can be reached by car, so begin by leaving the headquarters area—all distance figures are from this point—and turning left onto Bear Valley Road. The drive will take you to Limantour Beach where you can wade, watch the birds, beachcomb, or picnic. No lifeguard is on duty. The nearby Estero de Limantour is a favorite for birdwatchers for its variety and number of birds.

Bear Valley Visitor Center to Point Reyes Headlands A few miles past the town of Inverness, the Sir Francis Drake Highway forks. The right fork, Pierce Point Road, leads to **Tomales Bay State Park**, where you can picnic and swim; **Abbotts Lagoon**, where you can canoe and watch migratory waterfowl. But pounding surf and treacherous currents prevail along these beaches, so beware. The Pierce Point Road ends at the tule elk range. Before 1860 thousands of tule elk roamed here. After an absence of almost a century, a herd has been returned to this wilderness.

If you leave the side trip to Tomales Bay for another day, continue along Drake Highway. At 8.7 miles take the road to the **Mount Vision Overlook** for a panoramic view of the entire peninsula.

Back on Drake Highway, head west and south to Point Reyes Beach, a windswept stretch of sand that is divided into two areas: **Point Reyes Beach North** at 13.2 miles and **Point Reyes Beach South** at 15.7 miles. These are ideal places for a picnic. But don't go near the water! The hammering surf and rip currents are extremely hazardous and the entire area is subject to severe undertow.

A good protected beach for picnicking or just lying in the sun—if it's out—is at **Drakes Beach**. No lifeguard is on duty here. Stay away from cliff bases. You can get food at Drakes Beach Cafe and park information is available at the Kenneth C. Patrick Visitor Center. The turnoff is at 15.7 miles from headquarters.

On Drake Highway continue south to the **Point Reyes Lighthouse**, at 20.5 miles. Even if you don't elect to descend the 300 steps to the lighthouse, the view can be impressive. But be prepared for fog and windy weather. The rocky shelves below are home for thousands of common murres, and sea lions bask on the offshore rocks. The lighthouse observation platform is the best place to see gray whales on their southward and northward migrations, January to April. The lighthouse and visitor center are open Thursday through Monday, weather permitting. The nearby Sea Lion Overlook is an excellent spot for viewing harbor seals and sea lions.

Weather The weather is a great variable. The clearing of fog often signals the onset of strong winds. So, if you are planning to explore the park on foot, prepare yourself for cool weather, dampness, and wind. Remember that weather varies, not only from day to day but from hour to hour. From February through July, mild weather carpets the land with flowers. Summer is the time for a pleasant hike along the trails of Inverness Ridge. Fall weather and beach activities seem to be perfectly matched. The thrill of watching gray whales migrating southward to Baja California and back to the Bering Sea is compensation for the wet Point Reyes winter. But even if you do not see a whale, the bays and esteros will be thronged with seals and migratory shore birds.

Do not approach marine mammals found on the beach. Please report any sightings of marine mammals to the visitor centers.

STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS
Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612
913/296-2281 FAX 913/296-6953

October 28, 1997

Mr. R. G. Doran, City Manager
City of Garnett
131 West 5th St.
P.O. Box H
Garnett, KS 66032

Dear Mr. Doran:

This letter is in response to your request dated October 28, 1997 for certain information related to the Prairie Spirit Trail, and Kansas statutes related to the development of railbanked corridors into trails, and abandonment of corridors no longer deemed viable for railroad purposes.

Your first request was for a copy of H.B. 2711 passed by the Kansas Legislature in 1996. Kansas Department of Wildlife and Parks (KDWP) participated, along with the Kansas Farm Bureau (KFB), the Kansas Livestock Association (KLA), and other interested parties, including Western Resources due to its utility interests along various railbanked corridors, in the evolution of such state legislation. Such bill was ultimately passed and codified as K.S.A. 58-3211 through K.S.A. 58-3216, a copy of which are attached for your reference. KDWP approached such legislative initiative of KFB and KLA in a conciliatory manner and in the effort to recognize the legitimacy of concerns of local property owners, municipalities and counties that trail development of railbanked corridors proceed in an orderly manner, and once developed that trails be appropriately maintained. Many of the concerns expressed by opponents to trails along railbanked corridors were endeavored to be dealt with by this series of Kansas statutes. In particular, by virtue of K.S.A. 58-3212 a party responsible for a recreational trail has certain statutory duties, including providing litter control and enforcement of existing laws prohibiting littering, maintaining trail in a manner that does not create a fire hazard, providing law enforcement along the trail, and otherwise generally maintaining the trail.

In addition, K.S.A. 58-3213 has various safeguards respectful of local governmental interests. Such statutory section applies only to those recreational trails for which approval to enter into negotiations for interim trail use is received from the appropriate federal agency (presently the Federal Surface Transportation Board) after the effective date of such statute, which was July 1, 1996. In particular, K.S.A. 58-3213 requires the submission to cities and counties along the proposed trail of a project plan by the responsible party, and subsequent status reports thereafter. Subsections K.S.A. 58-3213(b)(3) and (4) were carefully drafted to permit

input by cities and counties along the trail, and to impose on the responsible party a duty to consider the recommendations of such local governmental units, but such local governmental units were not given the right to deny the development of a trail. Such balance of interests was weighed carefully during the evolution of the state statute so that no one city or county could thwart the interests of other local governments or entities in having a viable trail developed. Such balance was struck in recognition of the national policy interest to preserve established railroad rights-of-way for future reactivation of rail service, in lieu of vesting in any one local entity an overriding veto, that could effectively break-up and nullify the ability of any particular corridor to be continuous.

Your second request related to what existing Kansas statutes might have an impact on the ongoing operation of the Prairie Spirit Trail, and the development of the remaining phases of the Trail which have not yet been developed if H.R. 2438, as introduced September 9, 1997, becomes law. As a beginning caveat, there are certain ambiguities in the present form of H.R. 2438, that make it uncertain as to the legislative intent on the issue of whether it is intended to reach retroactively back and apply to trails for which interim trail use/railbanking agreements have been approved by the ICC or the Federal Surface Transportation Board, or is intended to only apply prospectively to trails approved after the federal law amendment becomes effective. Such ambiguity is compounded by another troublesome component of the proposed language of H.R. 2438 that provides that such Act would not preempt state law with respect to the establishment of, and right incident to, an easement, right-of-way or other property interest in land.

The impact of such possible proposed federal law is affected by the individual facts of each trail, including how its underlying interest was acquired, and in particular the status of its development. For background purposes, the federal authority for KDWP to enter into negotiations with its predecessor-in-interest, for an interim trail use of the railroad corridor in Franklin, Anderson and Allen Counties, now known as the Prairie Spirit Trail, was granted June 12, 1991, by the Interstate Commerce Commission. The Interim Trail Use/Rail Banking Agreement was executed by KDWP and its predecessor-in-interest, KCT Railway Corporation, on April 23, 1992. Such predecessor-in-interest also executed a quitclaim deed on that same date conveying whatever interest it had into KDWP. Such quitclaim deed was consecutively recorded in Franklin, Anderson and Allen Counties over approximately the next month.

If the proposed federal law is passed without clarifying the ambiguity as to whether it is retroactive, KDWP may take the position that its interest in the Prairie Spirit Trail is "grandfathered" and not impacted by such law. However, notwithstanding such argument, a possible effect of the proposed federal law amendment which recognizes supremacy of state, versus federal, law is that the amendment in essence could allow state law of abandonment of railroad right-of-way to supersede federal interests in preserving railroad corridors.

The breadth of the proposed amendment, in the form as introduced, suggests that not only existing state law, but also state law not yet enacted could supersede federal law. It would be mere conjecture and speculation on my part as to what future Kansas laws might be enacted, and

I will confine the analysis you requested to the existing Kansas law. Kansas Statute 66-525 is the existing applicable state law related to abandonment of railroad rights-of-way; a copy is attached for your reference.

Subpart "a" of Section 66-525 integrates when an abandonment occurs under state law with the federal law by providing that:

> [f]or purposes of this section, a railroad right-of-way shall be considered abandoned when the tracks, ties, and other components necessary for operation of the rail line are removed from the right-of-way following the issuance of an abandonment order by the appropriate federal or state authority...

This Kansas statute was the subject of an opinion of the Kansas Attorney General dated January 6, 1995 issued to State Representative Gerald T. Henry; a copy is attached for your reference. Please note in particular the conclusion reached on page 2, second full paragraph that:

> [i]t is only in the absence of a trail use agreement and the issuance of a certificate of abandonment by the ICC that state law is applicable... The disposition of abandoned railroad rights-of-way is governed by state law when no voluntary agreement [referencing interim trail use and railbanking agreements] is reached.

The proposed federal law amendment in H.R. 2438, if passed, could arguably be construed to reverse the conclusions rendered by the Kansas Attorney General in the January 6, 1995 opinion. This possible reversal could create even more uncertainty for the Prairie Spirit Trail.

Such uncertainty would be heightened by K.S.A. 66-525(f) that provides that any conveyance by a railroad company of any actual or purported right, title or interest in property acquired in strips for right-of-way to any other party other than the servient estate shall be null and void unless the successor intends to maintain railroad operations, and the railroad owns marketable title. The use of the term "servient estate" in subpart "f" suggests that the intended focus was those portions of right-of-way acquired by easement, rather than fee simple title; such inference as to intent is also supported by the exclusion from such subpart "f" property for which the railroad owns marketable title.

With respect to the Prairie Spirit Trail approximately 43% of the right-of-way was acquired from the federal government, principally that which is in the southern portion of the Trail, or Phase 3, which has not yet been developed. Arguably, based upon subpart "f" of K.S.A. 66-525, in its current form, even if the federal law as proposed becomes law, and it is deemed to have a retroactive effect, then at least some of the right-of-way would remain vested in KDWP to the extent its predecessors-in-interest had acquired title directly from the federal government. A careful examination of the conveyance documents in each circumstance for the various parcels along the Trail would be needed before a definitive opinion could be made on the integrated impact of H.R. 2438, as introduced, and K.S.A. 66-525(f).

We hope this information illustrates some of the uncertainty and confusion for the Prairie Spirit Trail that may well arise from H.R. 2438.

Sincerely,

Amelia J. McIntyre, Legal Counsel

cc: Secretary Steve Williams
Trent McCown, Prairie Spirit Manager

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Revisor's Note:
CAUTION: Section was repealed by L. 1996, ch. 212, § 22, effective July 1, 1997.

Attorney General's Opinions:
Furnishing disclosure of alternative agency relationship to prospective landlord or tenant client not required. 96-8.

58-30,111. Imputed knowledge. [See Revisor's Note] (a) A client shall not be liable for a misrepresentation of the client's statutory agent arising out of the agency agreement unless the client knew of the misrepresentation.

(b) A statutory agent shall not be liable for a misrepresentation of the agent's client arising out of the agency agreement unless the licensee knew of the misrepresentation.

(c) A statutory agent shall not be liable for an innocent misrepresentation in information provided to the seller or landlord or to the buyer or tenant if the licensee does not have personal knowledge of the error, inaccuracy or omission that is the basis for the misrepresentation.

History: L. 1995, ch. 252, § 11; Jan. 1, 1996.

Revisor's Note:
CAUTION: Section was repealed by L. 1996, ch. 212, § 22, effective July 1, 1997.

58-30,112. Forms; rules and regulations. [See Revisor's Note] The commission shall provide suggested forms of agency agreements and, by rules and regulations, provide such other prohibitions, limitations and conditions relating thereto as the commission may prescribe.

History: L. 1995, ch. 252, § 12; Jan. 1, 1996.

Revisor's Note:
CAUTION: Section was repealed by L. 1996, ch. 212, § 22, effective July 1, 1997.

Article 32.—LAND AND WATER RECREATIONAL AREAS

58-3203. Limited liability of property owners; owner's duty of care. Except as specifically recognized by or provided in K.S.A. 58-3206 and amendments thereto, an owner of land who makes all or any part of the land available to the public for recreational purposes owes no duty of care to keep the premises, or that part of the premises so made available, safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure or activity on such premises to persons entering for such purposes. An owner of land who does take actions to keep the premises safe or to warn persons of a dangerous condition, use, structure or activity on the premises shall not be deprived of the protection which this law would provide had the owner not taken such actions or given such warning.

History: L. 1965, ch. 559, § 3; L. 1995, ch. 167, § 1; Apr. 27.

58-3204. Same; owner's responsibility. Except as specifically recognized by or provided in K.S.A. 58-3206, and amendments thereto, an owner of land who either directly or indirectly invites or permits any person to use such property, or any part of such property, for recreational purposes or an owner of nonagricultural land who either directly or indirectly invites or permits without charge any person to use such property, or any part of such property, for recreational purposes does not thereby:

(a) Extend any assurance that the premises are safe for any purpose.

(b) Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.

(c) Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

History: L. 1965, ch. 559, § 4; L. 1988, ch. 198, § 2; L. 1995, ch. 167, § 2; Apr. 27.

58-3208 to 58-3210. Reserved.

RECREATIONAL TRAILS

58-3211. Definitions. As used in this act:

(a) "Adjacent property owner" means a person or entity, other than a responsible party, who owns property or facilities on or adjacent to a recreational trail.

(b) "Recreational trail" means a trail created pursuant to subsection (d) of 16 U.S.C. 1247 (1983).

(c) "Responsible party" means any person, for-profit entity, not-for-profit entity or governmental entity that is responsible for developing, operating or maintaining a recreational trail.

History: L. 1996, ch. 223, § 1; July 1.

58-3212. Duties of responsible party. (a) The responsible party, at all times after transfer of the deed to the responsible party, shall:

(1) Perform the duties imposed by K.S.A. 2-1314 and amendments thereto along the recreational trail;

(2) provide for the safety, use and accessibility of existing easements, utility facilities and access licenses along the recreational trail;

(3) provide for trail-user education and signs regarding trespassing laws and safety along the recreational trail;

(4) provide for litter control and the enforcement of laws prohibiting littering along the recreational trail, including but not limited to trail-user education and signs about laws prohibiting littering and the provision of trash receptacles and the cleanup of trash and litter;

(5) develop and maintain the recreational trail in a condition that does not create a fire hazard;

(6) designate the recreational trail for non-motorized vehicle use with exceptions only for motorized wheelchairs and maintenance, law enforcement and emergency vehicles;

(7) prohibit hunting or trapping on or from the recreational trail;

(8) provide for law enforcement along the recreational trail;

(9) grant easements to adjacent property owners to permit such owners to cross the recreational trail in a reasonable manner consistent with the use of the adjacent property and with K.S.A. 66-301 through 66-303, and amendments thereto;

(10) (A) maintain any existing fencing between the trail and adjacent property; (B) maintain any future fencing installed between the trail and adjacent property; (C) install between the trail and adjacent property fencing corresponding in class to that maintained on the remaining sides of such adjacent property; and (D) on request of an adjacent property owner, pay one-half the cost of installing fencing between the trail and such property owner's adjacent property with a fence of the class requested by such property owner, if not all remaining sides of such property are fenced; and

(11) (A) maintain the trail; (B) maintain all bridges, culverts, roadway intersections and crossings on the trail, essential to the reasonable and prudent operation of the trail or needed for drainage, flood control or the use of easements for crossing the trail between adjacent properties, or cause maintenance thereof by other parties that have assumed contractual responsibility therefor; and (C) install and maintain any warranted traffic signs on the trail.

(b) If the responsible party is not a governmental entity, the responsible party shall file with the county clerk of each county where a portion of the recreational trail is or will be located a bond or proof of an escrow account in a Kansas financial institution, as defined by K.S.A. 16-117 and amendments thereto, payable to the county. The bond or proof of an escrow account shall be filed at the time of transfer of the deed to the responsible party and annually thereafter. The bond or escrow account shall be conditioned on the responsible party's performance, and shall be in an amount agreed upon between the responsible party and the county commission as sufficient to fully cover the annual costs, of:

(1) Weed control along the trail, as required by subsection (a)(1);

(2) litter control along the trail, as required by subsection (a)(4);

(3) maintenance of the trail in a condition that does not create a fire hazard, as required by subsection (a)(5);

(4) installation and maintenance of fencing between the trail and adjacent property within the county, as required by subsection (a)(10); and

(5) installation and maintenance of signs along the trail, as required by subsections (a)(3), (a)(4) and (a)(11)(C).

If separate bonds are submitted to or escrow accounts established for the various counties through which the trail transverses, the annual costs listed above shall be only for that portion of the trail located within the particular county that is the holder of the bond or beneficiary of the escrow. A responsible party may submit a single bond or escrow account with multiple counties respectively as coobligees or cobeneficiaries, but in that event the annual costs used in computation of the bond amount shall be for the entire trail length.

(c) If the responsible party is not a governmental entity, the responsible party shall file with the county clerk of each county where a portion of the recreational trail is or will be located, proof of liability insurance in an amount agreed upon between the responsible party and the county commission as sufficient. Such proof shall be filed at the time of transfer of the deed to the responsible party and annually thereafter.

(d) The provisions of this section shall apply to all recreational trails, regardless of when approval to enter into negotiations for interim trail use is or was received from the appropriate federal agency.

(e) The provisions of this section may be modified or supplemented by any city governing body for recreational trails within the corporate limits of such city in the manner provided by K.S.A. 12-137 *et seq.* and amendments thereto. If a city governing body adopts requirements in addition to those provided by this section, the city shall pay all costs of compliance with such additional requirements.

History: L. 1996, ch. 223, § 2; July 1.

58-3213. Procedures for development. (a) Upon receipt of permission from the appropriate federal agency to enter into negotiations for interim trail use, the responsible party shall give written notice to each adjacent property owner that the responsible party intends to build a recreational trail adjacent to the property owner's property. The responsible party may utilize the addresses to which real estate tax statements are sent, as maintained by county officials, for such notices. Such notice shall be given by first-class mail unless the notice is returned undelivered, in which case a further notice shall be given by certified mail. Further notice shall be published once each week for three consecutive weeks in the official newspaper of the county in which such trail is proposed to be located.

(b) Before commencing development or operation of a recreational trail, the responsible party shall:

(1) Prepare a project plan that includes: (A) The name and address of the responsible party, (B) an itemized estimate of the costs of the project and sources of funding for the project, and (C) maps of the recreational trail;

(2) submit by certified mail, not later than 180 days after receiving approval of interim trail use from the appropriate federal agency, the initial project plan to the county commission of each county where a portion of the trail is to be located outside of city limits and to the governing body of each city where a portion of the trail is to be located inside the city limits;

(3) submit the final project plan to the county commission of each county where a portion of the trail is to be located outside of city limits and make subsequent reports to such county commission as to the status of trail development or operation, or both, at intervals determined by the commission and consider all recommendations the commission has regarding the trail; and

(4) submit the final project plan to the governing body of each city where a portion of the trail is to be located inside the city limits and make subsequent reports to such city governing body as to the status of trail development or operation, or both, at intervals determined by the governing body and consider all recommendations the governing body has regarding the trail.

(c) The responsible party shall complete development of a recreational trail within a period of time equal to two years times the number of counties in which the recreational trail is located. Such period of time shall begin only when the appeal period pursuant to subsection (d) of 16 U.S.C. 1247 (1983) has expired. Any time during which there is pending any court action challenging the development or use of the trail shall not be computed as part of the time limitation imposed by this subsection.

(d) The provisions of this section shall apply to only recreational trails for which approval to enter into negotiations for interim trail use is received from the appropriate federal agency on or after the effective date of this act.

History: L. 1996, ch. 223, § 3; L. 1996, ch. 252, § 1; July 1.

58-3214. Adjacent property owner's duty of care. An adjacent property owner has no duty of care to any person using a recreational trail except that this section shall not relieve an adjacent property owner from liability for injury to another that is a direct result of such property owner's gross negligence or willful or wanton misconduct.

History: L. 1996, ch. 223, § 4; July 1.

58-3215. Remedies for violations. A city or county may institute procedures for recourse against the responsible party pursuant to 16 U.S.C. 1247 (1983) and 49 C.F.R. 1152.29 (1986) upon the failure of the responsible party to comply with the provisions of this act.

History: L. 1996, ch. 223, § 5; July 1.

58-3216. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provisions or application. To this end the provisions of this act are severable.

History: L. 1996, ch. 223, § 6; July 1.

History: L. 1911, ch. 240, § 1; R.S. 1923, 66-304; L. 1995, ch. 98, § 17; Apr. 13.

CASE ANNOTATIONS

9. Whether shipment within state of goods purchased by seller outside of state is interstate or intrastate commerce examined; section does not impose strict liability. Southwest Business Systems, Inc. v. Western Kansas Xpress, Inc., 19 K.A.2d 861, 863, 865, 878 P.2d 833 (1994).

66-305.

CASE ANNOTATIONS

3. Whether shipment within state of goods purchased by seller outside of state is interstate or intrastate commerce examined. Southwest Business Systems, Inc. v. Western Kansas Xpress, Inc., 19 K.A.2d 861, 863, 878 P.2d 833 (1994).

Article 5.—POWERS OF RAILROAD COMPANIES

66-525. Railroad right-of-way; abandonment, when; requirements; release; notice. (a) For purposes of this section, a railroad right-of-way shall be considered abandoned when the tracks, ties, and other components necessary for operation of the rail line are removed from the right-of-way following the issuance of an abandonment order by the appropriate federal or state authority; or if, within two years after the exercise of such an order, removal of such components is not completed and railroad operating authority is not restored or reissued by an appropriate court or other federal or state authority; or if no rail line is placed on the right-of-way within 10 years after the right-of-way is acquired; except, that a railroad right-of-way shall not be considered abandoned if the railroad company or any other entity continues to use the right-of-way for railroad purposes after abandonment authority has been issued.

(b) If the grantee or assignee of record of a recorded railroad right-of-way abandons such right-of-way, such grantee or assignee shall: (1) Remove crossbucks and modify signal devices or install "exempt" signs at all locations within 90 days of abandonment; and (2) file a release of all right, title and interest in the right-of-way with the register of deeds of the counties in which the property is located, within 180 days after being requested by any owner of property servient to the right-of-way.

(c) If a grantee or assignee of record of a railroad right-of-way refuses or neglects to file a release when required by subsection (b), the owner of the servient property may bring an action in a court of competent jurisdiction to recover from the grantee or assignee of record damages in the amount of $500, together with costs and reasonable attorney fees for preparing and prosecuting the action. The owner may recover such additional damages as the evidence warrants, and may obtain injunctive relief to quiet the title and eject any unauthorized parties from the property.

(d) A grantee or assignee of railroad right-of-way, at any time, may file a general release of all right, title and interest in the right-of-way of one or more particular rail lines or portions thereof with the register of deeds of the county or counties in which such property is located. If such action has been taken, the grantee or assignee shall be relieved of any further obligation under this section to file individual releases of any right-of-way included in such a general release.

(e) Within 30 days after entering abandoned railroad right-of-way property upon the tax rolls pursuant to K.S.A. 79-401 *et seq.*, and amendments thereto, the county clerk of each county in which such property is so entered shall forward to the most recent railroad company holder of such property for right-of-way purposes, a certified list of the names and addresses of all property owners so entered upon the tax rolls following abandonment.

Within 30 days after receipt of such certified list by the railroad company, it shall send a notice of abandonment by first-class mail to each landowner at the address provided. The grantee or assignee of record of a recorded railroad right-of-way who abandons such right-of-way and provides the notice of such abandonment required by this subsection shall incur no civil or criminal liability for failure to notify any person who claims, or may claim, ownership of property servient to the abandoned right-of-way, nor shall such grantee or assignee incur any civil or criminal liability for notifying any person who has no legal claim to ownership of property servient to the abandoned right-of-way. The notice required by this subsection shall not create any legal right, be construed as a warranty or guarantee, nor shall such notice impair or cloud any lawful claim, right, title or interest of any person.

(f) Any conveyance by any railroad company of any actual or purported right, title or interest in property acquired in strips for right-of-way to any party other than the owner of the servient estate shall be null and void, unless such conveyance is made with a manifestation of intent that the railroad company's successor shall maintain

railroad operations on such right-of-way, and the railroad owns marketable title for such purpose.

(g) As used in this section, "railroad company" has the meaning of such term as defined in K.S.A. 66-180, and amendments thereto.

History: L. 1986, ch. 247, § 1; L. 1987, ch. 258, § 1; L. 1993, ch. 105, § 1; July 1.

Attorney General's Opinions:

Railroad right-of-way; abandonment; requirements; release; notice. 95-4.

Article 12.—MISCELLANEOUS PROVISIONS

66-1220a.

CASE ANNOTATIONS

1. KCC refusal to consider in-camera information not subject to cross-examination precluded due process violation. Mobil Exploration & Producing U.S. Inc. v. Kansas Corporation Comm'n, 258 K. 796, 820, 908 P.2d 1276 (1995).

66-1226. Alternative fuels; coordination by commission; duties; report. (a) For the purpose of this section:

(1) "Commission" means the state corporation commission;

(2) "alternative fuel" means any fuel defined as alternative fuel by 42 U.S.C.A. 13211(2).

(b) The commission shall coordinate and facilitate communication with other state agencies concerning alternative fuels and the duties provided for in this section. The commission shall specifically communicate and cooperate with:

(1) The secretary of transportation or the secretary's designee;

(2) the secretary of administration or the secretary's designee;

(3) the secretary of revenue or the secretary's designee;

(4) the secretary of health and environment or the secretary's designee;

(5) a designee of the state board of education who has experience with, or knowledge about, school bus transportation; and

(6) the secretary of agriculture or the secretary's designee.

(c) The commission shall:

(1) Develop a time table for the conversion of motor vehicles from conventional fuels to alternative fuels for the state of Kansas;

(2) develop criteria for which motor vehicles can or should be converted to alternative fuels;

(3) determine locales throughout the state with sufficient number of state-owned motor vehicles or fleet motor vehicles to make feasible appropriate refueling systems;

(4) identify problems that need to be overcome and possible solutions for implementing programs promoting alternative fueled motor vehicles;

(5) coordinate with the federal government, cities, counties, school districts and private motor vehicle fleet owners regarding co-op fueling stations, co-opted conversion functions and other alternative fuel matters to enable a cooperative atmosphere among such entities.

(6) develop a statewide plan and program for alternative fueled motor vehicles.

(d) The commission may invite private sector representatives of energy production industry, motor vehicle manufacturing industry, public utility industry or such other persons who can provide information on alternative fueled motor vehicles to testify to or participate with the commission in exercising its duties.

(e) The commission shall make a report to the governor and the legislature on or before the first day of the regular legislative session of 1995. Such report shall include a report on the progress in obtaining the goals established in subsection (c). The commission shall make its final report and recommendations to the governor and the legislature on or before the first day of the regular legislative session in 1996.

History: L. 1994, ch. 212, § 1; July 1.

Article 13.—MOTOR CARRIERS

66-1302.

CASE ANNOTATIONS

2. Cited; whether rental truck used to move personal belongings is a "motor carrier" examined; "motor carrier" defined. State v. Campbell, 19 K.A.2d 778, 781, 875 P.2d 1010 (1994).

66-1313a. Inspection of motor carrier equipment; inspection stations; certificates; rules and regulations; fees. Except as otherwise authorized under other laws of this state, a motor carrier who holds a certificate of convenience and necessity, a certificate of public service, a contract carrier permit, a private carrier permit or an interstate license from the state corporation commission, upon application to the commission, may be designated to establish an authorized inspection station for the inspection of the motor vehicles, trailers and semitrailers operated in this state by such motor carrier for compliance with the

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

January 6, 1995

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

ATTORNEY GENERAL OPINION NO. 94-__4__

The Honorable Gerald T. Henry
State Representative, Forty-Eighth District
3515 Neosho Road
Cummings, Kansas 66016

Re: Public Utilities--Powers of Railroad Companies--Railroad Right-of-Way; Abandonment, When; Requirements; Release; Notice

Synopsis: The national trade systems act, 16 U.S.C. § 1247(d), enacted to preserve established railroad rights-of-way for future reactivation of rail service, authorizes the interstate commerce commission (ICC) to permit such rights-of-way to be used on an interim basis as recreational trails. In lieu of abandonment the ICC may approve the railroad right of way as an interim trail if the request is made before abandonment of the line has been consummated and if the trail use group reaches an agreement with the railroad company. If no agreement is reached and the ICC approves the abandonment, state law governs the disposition of the abandoned railroad property. Cited herein: K.S.A. 1993 Supp. 66-525; 16 U.S.C. § 1241; 49 U.S.C. § 10903; 49 C.F.R. § 1152.29.

* * *

Dear Representative Henry:

You inquire about the interpretation of K.S.A. 1993 Supp. 66-525 dealing with the disposition of abandoned railroad

property in Kansas. You indicate that "Rails to Trails Task Force" of the Glacial Hills Resource Conservation and Development Council, Inc. (RC&D) is studying the possibility of converting the old Atchison, Topeka and Santa Fe rail line into a hiking/biking trail. You inquire whether K.S.A. 1993 Supp. 66-525 authorizes the sale or donation of the abandoned rail line to RC&D pursuant to the national trails system act, 16 U.S.C. § 1241 et seq.

The abandonment of railroad lines is governed by federal law. No railroad can be abandoned without the interstate commerce commission's (ICC) approval. 49 U.S.C. § 10903(a). Chicago & N.W. Transportation Co. v. Kalo Brick & Tile Co., 450 U.S. 311, 313, 101 S.Ct. 1124, 1128, 67 L.Ed.2d 258 (1981). The national trails system act (trails act), 16 U.S.C. § 1247(d), encated to preserve established railroad rights-of-way for future reactivation of rail service, authorizes the ICC to permit such rights-of-way to be used on an interim basis as recreational trails. The concept is known as "railbanking," whereby the use of a railroad right of way as a recreational trail on an interim basis is not considered an abandonment of rail use for purposes of any state law, so long as the right of way is subject to restoration for rail service. 16 U.S.C. § 1247(d). During a proposed abandonment or discontinuance, groups who seek to establish a trail on a railroad right-of-way may file an interim trail use statement with the ICC within the 30-day protest and comment period. 49 C.F.R. 1152.29(b)(1). If an agreement is reached between the railroad and the trail use group, the railroad right-of-way becomes railbanked. The national trails system act preempts any state law that deals with disposition or transfer of abandoned railroad property. Glosemeyer v. Missouri-Kansas-Texas Railroad Co., 685 F. Supp. 1108, 1114 (E.D. Mo. 1988).

It is only in the absence of a trail use agreement and the issuance of a certificate of abandonment by the ICC that state law is applicable. The agreements are voluntary and the trails act does not give the ICC the power to condemn railroad rights-of-way for interim trail use and rail banking. 2 ICC2d 591, 596 (1985). In other words, the abandonment of railroad property is governed and approved by the ICC and subject to the national trails system act. The disposition of abandoned railroad rights-of-way is governed by state law when no voluntary agreement is reached. Hayfield Northern Railroad Co. v. Chicago and North Western Transportation Co., 467 U.S. 622, 81 L.Ed.2d 527 (1984).

K.S.A. 1993 Supp. 66-525(a) governs the disposition of abandoned railroad rights-of-way but does not apply because the ICC issued a Decision and Notice of Interim Trail Use or Abandonment on March 30, 1994, giving the railroad in question and a different trail group, American Trails Association, Inc. 180 days to enter into an interim trail use agreement. We understand that an order providing for an interim trails use/railbanking has been implemented pursuant to a negotiated agreement, making K.S.A. 1993 Supp. 66-525 inapplicable.

Very truly yours,

Robert T. Stephan

ROBERT T. STEPHAN
Attorney General of Kansas

Guen Easley

Guen Easley
Assistant Attorney General

RTS:JLM:GE:jm

City of Garnett

October 29, 1997

James V. Hansen, Chairman
Subcommittee on National Parks & Public Lands
U. S. House of Representatives
Washington, D. C. 20515

Dear Chairman Hansen:

Thank you for the opportunity to present this written information concerning the Prairie Spirit Rail Trail to your sub-committee.

The rails-to-trails program has been very successful in other states and I feel that it will be extremely successful in Kansas. There is not a day that goes by that we do not receive numerous positive comments from trail users who visit our small, rural community.

The issue of rails-to-trails affects many people, not just in the State of Kansas. We feel that Representative Ryun should have given the cities of Ottawa and Garnett the professional respect of contacting their governing bodies to discuss his proposed legislation prior to drafting and submitting House Bill 2438 to your committee.

Since this did not happen, we are confident that you and your committee will certainly investigate the total economic benefits, quality of life and safety factors that rail trails provide before making a final decision on Representative Ryun's bill. In addition, your committee must consider the fact that the railbanking law is making something useful out of the abandoned railroad right-of-ways while preserving their existence for future rail use and possible national security. Our highways are already overcrowded with large truck traffic and farmers are expressing their concern because there are not enough rail cars to deliver their grains to the marketplace. It seems reasonable that future rail traffic will have to increase and it is imperative that the rail corridors be preserved.

Congressman Ryun was elected to represent all the people in his district and as such must look at both sides of all issues. History proves that the negative side of any issue is the first to be heard.

Thank you for considering these comments.

Yours truly,

Richard G. Doran
City Manager

131 West 5th P.O. Box H. Garnett, KS 66032
(913) 448-5496 Fax: (913) 448-5555

CITY OF
OTTAWA
KANSAS

October 28, 1997

Representative James V. Hansen, Chairman
Sub-committee on National Parks, Forests and Lands of the Resources Committee
H1-814 O'Neil House Office Building
New Jersey and C Street S.E.
Washington, D.C. 20515

Dear Mr. Chairman and Members of the Committee:

I am writing to you on behalf of the City Commission of Ottawa, Kansas to express our concerns with the proposed changes to the National Trails Act. The downtown of the City of Ottawa is uniquely situated at the cross-roads of two railbanked corridors which are proposed to be developed for trail purposes. The north/south trail from Ottawa to Garnett is a State-managed bike and hike trail that is currently under construction. The east/west trail from Osawatomie to Herington is intended to be a privately-managed trail for equestrian use that is yet to be developed.

Given the interstate connections and the infinite possibilities of future infrastructure improvements in the railbanked corridors for transportation and/or communication applications, the City Commission is convinced that the continual retention of the existing rail corridors are of paramount interest to the City of Ottawa, State of Kansas and the nation as a whole. The City Commission also firmly believes that interim uses of these corridors should not be utilized as a vehicle for their ultimate and untimely abandonment.

It is without question that the continuation of the controversy over issue of reversionary rights serves no beneficial purpose and it should be incumbent upon Congress to specifically identify a clear federal interest in the continuation of the existence of these rail corridors, express strong support for current and future railbanking efforts and establish definitive authority for State or local governments or private entities to utilize these corridors for alternative interim purposes.

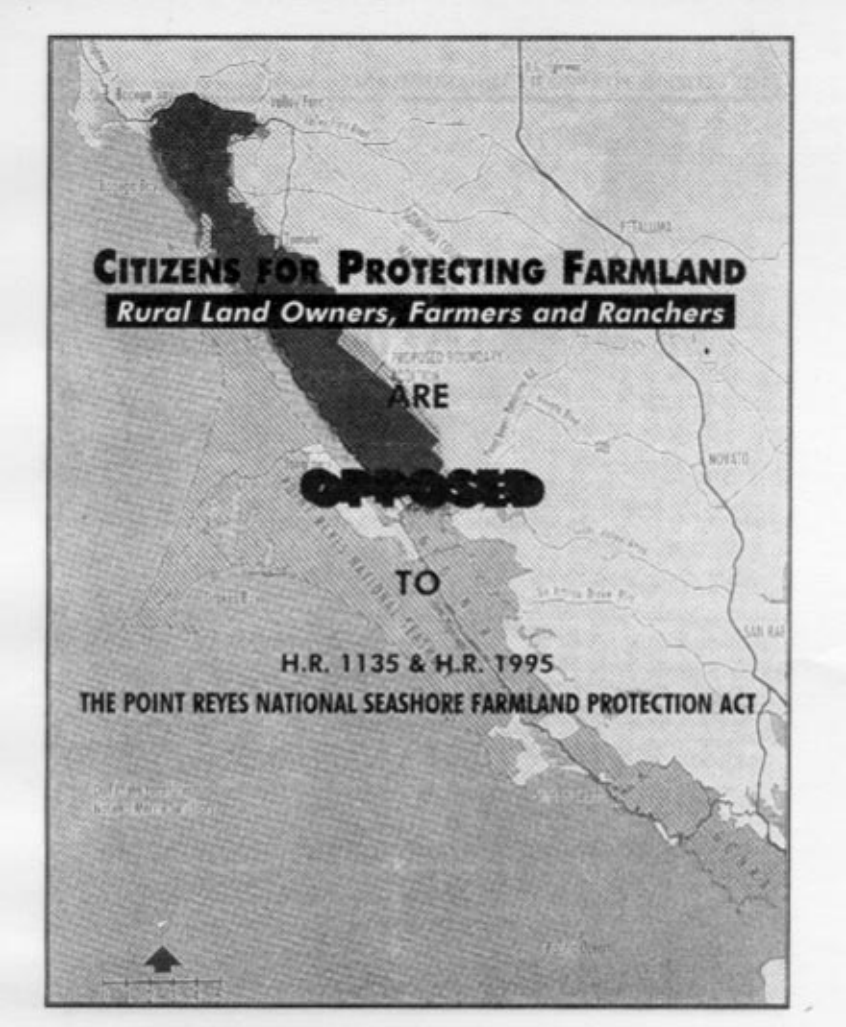
We thank you for your consideration of our position.

Very truly yours,

Vicki Cummiskey
Mayor

cc: Representative Jim Ryun

City Hall • 101 S. Hickory • Ottawa, Kansas 66067-2347 • (913) 229-3637 • Fax (913) 229-3639


CITIZENS FOR PROTECTING FARMLAND
Rural Land Owners, Farmers and Ranchers
ARE
OPPOSED
TO
H.R. 1135 & H.R. 1995
THE POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT

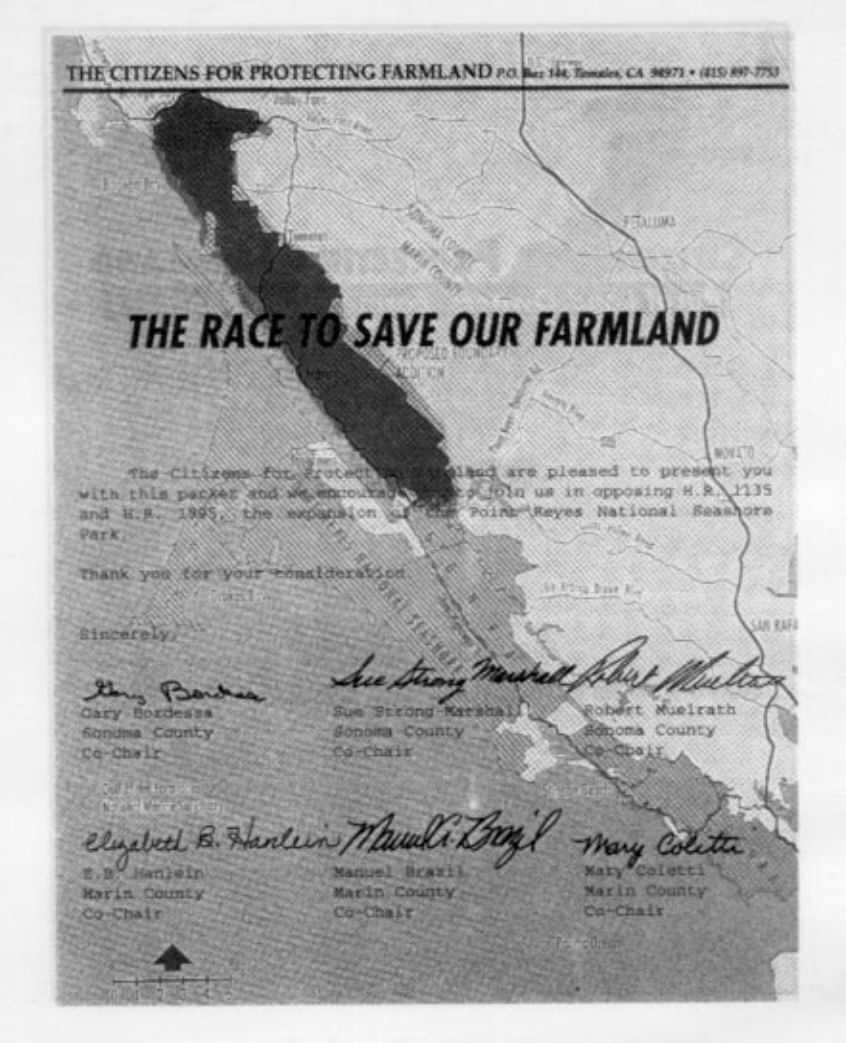
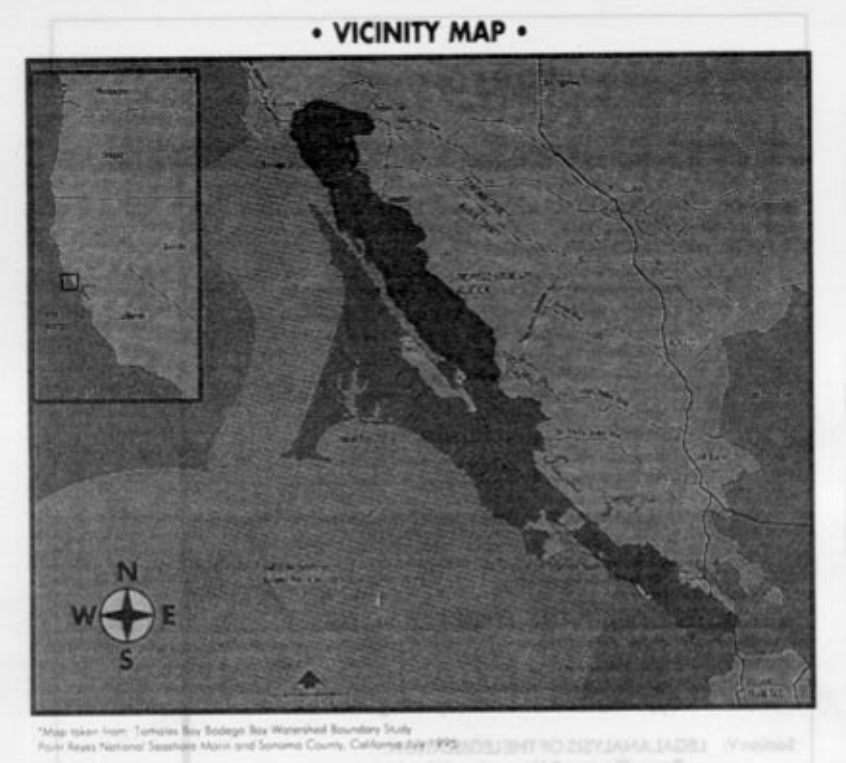

THE CITIZENS FOR PROTECTING FARMLAND P.O. Box 146, Tomales, CA 94971 • (415) 897-7753
THE RACE TO SAVE OUR FARMLAND
The Citizens for Protecting Farmland are pleased to present you with this packet and we encourage you to join us in opposing H.R. 1135 and H.R. 1995, the expansion of Point Reyes National Seashore Park.
Thank you for your consideration.
Sincerely,
Gary Bordessa
Sonoma County
Co-Chair
Sue Strong-Marshall
Sonoma County
Co-Chair
Robert Muelrath
Sonoma County
Co-Chair
E.B. Hanlein
Marin County
Co-Chair
Manuel Brazil
Marin County
Co-Chair
Mary Coletti
Marin County
Co-Chair

TABLE OF CONTENTS

SECTION	DESCRIPTION	PAGE NUMBER
Section I:	INTRODUCTION	1-2
Section II:	MAPS AND SUMMARY TABLES:	
	Vicinity Map	3
	Lands Protected Under Stringent Zoning Laws	4
	Lands Protected by the Williamson Act	5
	Lands Protected by: Marin Agriculture Land Trust, Sonoma Agriculture Land Trust, Sonoma County Agriculture Preservation and Open Space	
	Government Owned Land	6
	Lands Opposed to HR 1135 and HR 1955	7
	Reference Map	8
	Map Summary Table	9
	Summary Table of Landowners Opposed to H.R. 1135 and H. R. 1995 & Own Land Within The Proposed Park Boundary	10
	Summary Table of Landowners with Major concerns to H.R. 1135 and H. R. 1995 & Own Land Within The Proposed Park Boundary	11
Section III:	SONOMA AND MARIN COUNTY ZONING LAWS	12-20
Section IV:	OPPOSITION:	
	Opposition Letters from Land Owners	21-82
	Opposition Letters from Groups & Organizations	83-102
Section V:	LEGAL ANALYSIS OF THE LEGISLATION:	
	Remy, Thomas & Moose, Land Use Attorneys	103-115
	Farm Bureau Federation	116
	Bruce Blodgett, California Farm Bureau Federation, Department of Environmental Advocacy	117-122
SectionVI:	LEGISLATION:	
	H.R. 1135 Amending Public Law 87-577	123-129
	H.R. 1995 Amending Public Law 87-577	130-136
	Public Law 87-577 Establishing Pt. Reyes National Seashore in 1962	137-142



*Map taken from: Tomales Bay Bodega Bay Watershed Boundary Study
Point Reyes National Seashore Marin and Sonoma County, California July 1995

I. INTRODUCTION

The Citizens for Protecting Farmland are in opposition to H.R. 1135 and H.R. 1995, Woolsey, referred to as the Point Reyes National Seashore Farmland Protection Act.

H.R. 1135 and H.R. 1995 will place an **involuntary** boundary around 38,000 acres of prime farmland in Sonoma and Marin Counties in the attempt to expand what is known as the Point Reyes National Seashore Park.

Currently, more than 90% of the privately owned farmland proposed in H.R. 1135 and H.R. 1995 is already protected under the most stringent laws of zoning, the Williamson Act, Marin Agriculture Land Trust (MALT), Sonoma Land Trust, Sonoma County Agricultural Preservation and Open Space District or is already Government owned property.

If passed, these bills will duplicate all existing laws of zoning in Sonoma and Marin Counties and is simply a waste of tax dollars.

In addition, this legislation will diminish agricultural opportunities in the proposed park boundary. *These bills will reduce the value of farmland -- making it harder, if not impossible for farmers or ranchers to borrow against their property. This will threaten any chance for farmers or ranchers to survive in business.

Furthermore, the same families have owned much of the land in the proposed park boundary for generations, dating back as far as the mid-1800s. They have and continue to do a good job of protecting and preserving this land -- through this proposed legislation these same families are now being penalized for keeping their lands in such pristine condition.

We would encourage Ms. Woolsey to increase the Farm Bill funding by the proposed $30 million and use it for purchasing **voluntary** USDA conservation easements in Sonoma and Marin Counties. This will allow funding for anyone that would like to preserve their land without the expansion of the Point Reyes National Seashore Park.

*see legislative analysis by Remy, Thomas and Moose, page 104, paragraph 5.

(INTRODUCTION, CONTINUED)

Enclosed, is a map of the proposed park boundary that shows the total acres of land that is protected by the following:

- Lands protected under stringent laws of zoning
- The Williamson Act
- Marin Agriculture Land Trust (MALT)
- Sonoma Land Trust
- Sonoma County Agricultural Preservation and Open Space District
- Government Owned Land

There is also a map representing lands that are opposed to H.R. 1135 and H.R. 1995, as well as letters from landowners and organizations urging Congress to oppose this legislation.

Please join the Citizens for Protecting Farmland and help put an end to H.R. 1135 and H.R. 1995.

JOHN T. DOOLITTLE
4TH DISTRICT, CALIFORNIA

DEPUTY WHIP

COMMITTEES
AGRICULTURE

RESOURCES
CHAIRMAN—WATER AND POWER RESOURCES SUBCOMMITTEE

JOINT ECONOMIC COMMITTEE

1432 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0504
202-225-2511

ROSEVILLE, CA 95661
916-786-8580
916-773-1236

Congress of the United States
House of Representatives

October 10, 1997

Mr. Jay Wilson
California Wool Growers Association
1225 H Street, Suite 101
Sacramento, CA 95814-1910

RECEIVED
OCT 16 1997
Ans'd.....

Dear Mr. Wilson:

Thank you for contacting my office regarding Congresswoman Woolsey's bill H.R.1135. It was good to hear from you.

Earlier this session, Congresswoman Lynn Woolsey introduced the Point Reyes National Seashore Farmland Protection Act of 1997. This legislation is intended to provide for the protection of farmland at the Point Reyes National Seashore by authorizing the Department of the Interior to spend $30 million to purchase development rights from landowners near Tomales and Bodega Bay, California. In addition, the bill would expand the national park by 38,000 acres.

As a strong advocate for private property rights, I feel that H.R.1135 would pose a threat to area ranchers' ownership rights. Nearly all those whose lands are within the boundaries specified are opposed to this legislation. Two years ago, these ranchers helped to forestall similar legislation to expand the Point Reyes National Park. While the sale of development rights would be optional, the bill would not make being a part of the park system voluntary. These ranchers would see their lands engulfed by an expansion of the park. In addition, Congresswoman Woolsey's bill does not propose adequate funding for the purchase of the development rights of this highly valuable 38,000 acre area.

While the primary objective of this legislation is to "protect private agricultural land from non-agricultural development by conservation easements", I disagree with the means taken in order to achieve the end. The proper way to protect agricultural land would be to repeal the estate tax and burdensome property taxes and to de-regulate the agriculture industry to make farming more profitable and attractive. Development threatens agriculture land because farming under burdensome taxes and regulation is less profitable than selling to developers. I believe we must work towards providing incentives for farmers to maintain their land.

Finally, H.R.1135 seeks to have the American taxpayer spend tax dollars to buy agricultural easements. Since the 1970's these areas have been included in conservation

DOT & SPOTS

easements with Marin County, California. This proposed legislation duplicates the effects of an agreement that has already been undertaken.

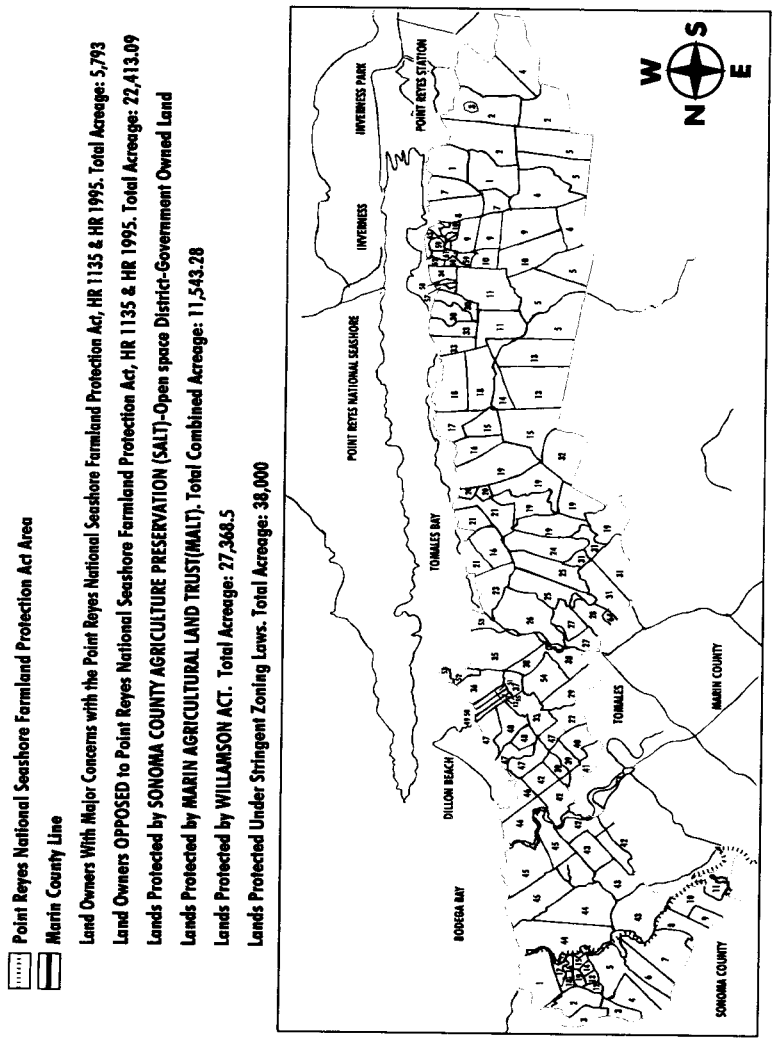
While the aesthetic beauty of the Point Reyes National Seashore is undeniable, I do not support legislation that will strip landowners of their rights to determine the future of their property.

Again, thank you for sharing your concerns with me. Please feel free to contact my office in the future.

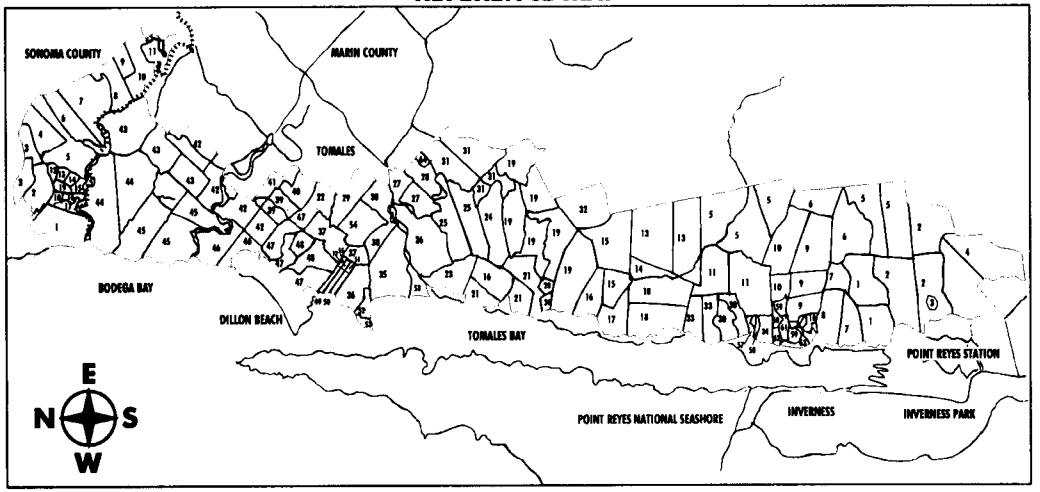
Sincerely,

JOHN T. DOOLITTLE
United States Representative

JTD:ms


Point Reyes National Seashore Farmland Protection Act Area
Marin County Line
Land Owners With Major Concerns with the Point Reyes National Seashore Farmland Protection Act, HR 1135 & HR 1995. Total Acreage: 5,793
Land Owners OPPOSED to Point Reyes National Seashore Farmland Protection Act, HR 1135 & HR 1995. Total Acreage: 22,413.09
Lands Protected by SONOMA COUNTY AGRICULTURE PRESERVATION (SALT)-Open space District-Government Owned Land
Lands Protected by MARIN AGRICULTURAL LAND TRUST(MALT). Total Combined Acreage: 11,543.28
Lands Protected by WILLIAMSON ACT. Total Acreage: 27,368.5
Lands Protected Under Stringent Zoning Laws. Total Acreage: 38,000
POINT REYES NATIONAL SEASHORE
INVERNESS
INVERNESS PARK
POINT REYES STATION
TOMALES BAY
DILLON BEACH
BODEGA BAY
TOMALES
MARIN COUNTY
SONOMA COUNTY
W
S
N
E

• REFERENCE MAP •



Lands Protected Under California Coastal Commission, Gulf of Farllones National sancuary, Williamson Act, MALT, SALT, and County Zoning restrictions. Total Acreage: 38,000

Lands Protected by WILLAMSON ACT. Total Acreage: 27,368.5

Lands Protected by MARIN AGRICULTURAL LAND TRUST(MALT). Total Combined Acreage: 11,543.28

Lands Protected by SONOMA COUNTY AGRICULTURE PRESERVATION (SALT)-Open space District-Government Owned Land

Land Owners OPPOSED to Point Reyes National Seashore Farmland Protection Act, HR 1135 & HR 1995. Total Acreage: 22,413.09

Land Owners With Major Concerns with the Point Reyes National Seashore Farmland Protection Act, HR 1135 & HR 1995. Total Acreage: 5,793

Marin County Line

Point Reyes National Seashore Farmland Protection Act Area

LAND ACREAGE SUMMARY

1.	*Land Protected Under Stringent Zoning Laws:*	*38,000.00*
2.	*Land Protected by the Williamson Act:*	*27,368.50*
1.	*Land Protected by:*	
	Sonoma Land Trust	
	Marin Agriculture Land Trust	
	Sonoma Co. Agriculture Preservation & Open Space	
	or Government Owned Land	*11,543.28*
4.	*Landowners OPPOSED:*	
	Sonoma County Landowners:	*3,532.28*
	Marin County Landowners:	*18,921.09*
		22,413.09
5.	*Landowners with Major Concerns:*	
	Marin County:	*5,793.03*

LAND OWNERS OPPOSED TO THE
POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT, HR 1135 &HR 1995

22,413.09 Acres Signed as OPPOSED

SONOMA COUNTY

NUMBER	LANDOWNER	ACREAGE
1	George Bottarini	548.00
2	Phyllis Hageman	242.00
3	Robert Muelrath	360.00
4	Randy Mantua	294.00
5	Sue Strong/Marshal	477.33
7	Ken Lanker(Grippi)	460.00
8	Leroy Cerini	239.70
9	Helen Bianchi	111.00
10	Oliver Illia	294.33
11	Gary Bordessa	249.92
12,13	Willard Yuers	80.00
14	Steve Brumm	96.00
19	Denny Tibbetts	40.00
	Total:	3,492.00

MARIN COUNTY

NUMBER	LANDOWNER	ACREAGE
2	Hazel Martinelli ETAL	1,614.47
9	Judith Borello	864.38
10	Donna Furlong TR	609.10
11	Henry Grossi	1,001.00
13	Lucas Respini	1,241.93
16	Mervyn ZimmermanETAL	568.00
17	Jennie Leali ETAL	250.00
18	Bill Barboni	882.76
20	Michael Rea	86.77
22	Emma Crayne	291.41
25	Eugene PonciaETAL	750.00
26	David Louis	588.28
29	John Mitchell ETAL	294.11
30	George Zimmerman	319.02
31	Manual Brazil	960.00
34	Andrew Varlow	91.12

NUMBER	LANDOWNER	ACREAGE
35	Maria/Herold Moretti	731.64
36	Peter GordonETAL	259.64
37	Elizabeth Hanlein, Coletti	294.52
38	Roy Cerini	360.82
39	R.D. Williamsen	620.46
40	Molly Ledger	203.00
42	Edward Pozzi ETAL	1,025.64
43	Garth Conlan	1,103.13
44	Spaletta Dairy	1,449.60
45	Kie Boon Trading PTE. LTD.	1,254.00
46	Cynthia Christopher	456.58
47	Merle Lawson	530.48
54	Romeo Cerini	191.84
	Edward Johansson	11.84
	Estero Mutual Water	28.97
55	Joe Wahneseidler ETAL	35.74
56	Lawrence Vanoni	1.96
58	Roger Braun	40.00
	Total:	18,921.09

LAND OWNERS WHO HAVE MAJOR CONCERNS

WITH THE POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT, HR 1135 & HR 1995

Total Acres: 5,793.03

MARIN COUNTY

NUMBER	ACREAGE	
4	Margaret Nobmann	1,192.00
5	Barbara Stevens ETAL	1,492.00
6	Joseph Panfiglio ETAL	810.00
16	Meryvn & Mary Zimmerman	568.77
23	Terry Zimmerman	280.66
44	Spaletta Dairy	1,449.60
		Total: 5,793.03

SONOMA AND MARIN COUNTY ZONING

The following objectives and policies are programs that provide a description and meaning for each zone. These agricultural lands within the proposed National Seashore Park Boundary are protected under the most stringent laws zoning in the State of California.

IIIa. SONOMA COUNTY ZONING LAWS

Article VIII. AP Primary Agricultural District.

Sec. 26C-80. Purpose.

To conserve and protect lands suitable for agricultural production which are not included within the AE (Exclusive Agricultural) district. The "AP" district is to be applied in areas within the General Plan's "Undeveloped", "General Agriculture", "Orchard and Vineyard", and "Agriculture and Residential" land use categories. This zone allows agricultural uses, but restricts non-agricultural uses.

Sec. 26C-81. Uses permitted subject to Site Development and Erosion Control Standards (article 51).

The following uses are permitted except within a sensitive area, riparian corridor, scenic corridor, area of critical habitat, or unique feature designated in the General Plan or specific plans, in which case a Use Permit or Use Permit Waiver (section 26C-472) may be required. All clearing of vegetation, grading, excavation, fill or construction in association with these uses shall conform to the Site Development and Erosion Control Standards (article 51).

(a) Principal Uses:

1. The outdoor growing and harvesting of plants, flowers, fruits, vegetables, shrubs, vines, trees, hay, grain and other similar food and fiber crops including the packing, drying, polishing and the like of unprocessed agricultural yield grown on the premises.

2. On parcels exceeding five (5) acres, livestock farming including the raising, feeding, maintaining, and breeding of horses, cattle, sheep, goats, and similar livestock is not restricted except as provided in (section 26C-82(b)9 through section 26C-82(b)14.

(b) Resource Management Uses:

1. Geotechnical studies involving no grading or construction of new roads or pads.
2. Wildlife preserves and refuges.
3. Timber management activities including raising and harvesting of trees for lumber on parcels greater than three (3) acres in size, subject to requirements of the California Division of Forestry, Timber Harvesting Plan.
4. On parcels of five (5) acres or less, domestic livestock farming shall be limited to raising, feeding, maintaining and breeding of livestock at the following rates:
   a. One (1) hog or pig per each 20,000 square feet of lot area.
   b. One (1) horse or mule or cow or steer per 20,000 square feet of lot area.
   c. Twenty-five (25) chickens per 20,000 square feet of lot area.
   d. Three (3) goats or sheep or similar livestock per 20,000 square feet of lot area.
   e. Ten (10) ducks or rabbits or similar livestock per 20,000 square feet of lot area.
   f. Twenty-five (25) pigeons or fifty (50) ornamental or song birds per 20,000 square feet of lot space.

   Lot area used to justify one (1) animal may not be used to justify another animal.

   4-H and FFA animals husbandry projects are permitted without limitation of parcel size, provided that the parcel contains at least 20,000 square feet and provided further a letter is first submitted by the project advisor. The planning director may require the applicant to obtain a use permit when the director determines that the project might be detrimental to surrounding uses.

(c) Residential Uses:

1. One (1) single-family dwelling.
2. Additional detached single family dwellings not to exceed three (3) per parcel, subject to the following limitations:
   a. The additional dwellings must be consistent with permitted General Plan and specific plan densities.
   b. The total number of dwellings shall not exceed one (1) unit per sixty (60) acres unless specified otherwise by a "B" Combining District.
   c. The additional dwellings (three (3) maximum) should be clustered with the primary dwelling in order to minimize roads, drives and utility extensions.
   d. Siting of each additional dwelling unit shall be subject to Design Review (article 50).

e. Additional dwellings or mobile homes may be permitted when they are to be occupied by persons who are full-time agricultural employees on the property and when none of the other dwellings on the property are separately leased or rented. Such housing is permitted upon the finding by the Planning Director that it is necessary for the conduct of the principal agricultural use following a recommendation to that effect from the Agricultural Advisory Committee. In no case shall this housing exceed one (1) unit per:

a. Fifty (50) dairy or purebred cows or 100 beef cattle.
b. Forty (40) acres of grapes, apples, pears, or prunes.
c. Twenty thousand (20,000) broilers, 15,000 egg-layers, or 3,000 turkeys.
d. Two hundred fifty sheep or goats, fifty (50) dairy goats or hogs.
e. Any other agricultural use which the Planning Director determines to be of the same approximate agricultural value and intensity as a. through d. above.

Prior to the issuance of zoning permits for agricultural employee dwellings, the property owner shall place on file with the Planning Department an affidavit that said dwellings will be used to house persons employed on the premises for agricultural purposes, that no other dwellings on the property are separately leased or rented, and that the dwelling(s) will be immediately removed from the premises when said persons are no longer employed solely on the premises. Agricultural employee zoning permits shall be subject to the provisions of Design Review (article 50).

3. Temporary farmworker housing which meets the standards set forth in Section 26C-450(i). Temporary farmworker housing shall also conform to additional public health, building and fire safety criteria established by resolution or ordinance of the Board of Supervisors. (Ord. No. 4166, 1990.)

(d) Incidental Uses:

1. One (1) guest house.
2. Accessory structures or uses incidental and appurtenant to any permitted uses including barns, sheds, and corrals.
3. One (1) stand for the sale of agricultural products grown on the premises, subject to requirements of Design Review (article 50).
4. Accessory structures or uses incidental and appurtenant to a single family dwelling including:
   a. Home occupations.
   b. Hobby greenhouses up to 1,000 square feet in floor area.
   c. Non-commercial kennels for up to ten (10) dogs.
   d. Non-commercial stables.
   e. Day care and home care centers, resocialization facilities and preschools for six (6) or fewer persons.
   f. The raising, feeding, maintaining, and breeding of poultry, fowl, rabbits, fur bearing animals, and the like, for use or consumption by the persons residing on the property.
5. Appurtenant signs subject to Sign Regulations (article 37 current Zoning Ordinance article 26) and Design Review (article 50).

Sec. 26C—82. Uses requiring a Use Permit or Use Permit Waiver.

(a) Sensitive Area Uses:

1. Permitted uses listed in section 26C—81 when located within a sensitive area, riparian corridor, scenic corridor, area of critical habitat, or unique feature designated in the General Plan or specific plans.
2. Any clearing of vegetation, grading excavation, fill or construction when located within a sensitive area, riparian corridor, scenic corridor, area of critical habitat or unique feature designated in the General Plan or specific plans.

(b) Resource Management Uses:

1. Geotechnical studies which involve grading or construction of new roads or pads.
2. Commercial harvesting and on-site or off-site sales of fuel woods.
3. Commercial timber harvesting of trees for lumber on parcels less than three (3) acres in size.
4. Controlled burns undertaken for purposes of fuel load management and wildlife habitat enhancement.
5. Lumber mills and associated lumber yards, log decks, and equipment for the commercial milling and on-site or off-site sales of timber products.
6. Mineral resource production involving sites of five (5) acres or less, and incidental to the primary purposes of the natural resources district. Mineral resource production on sites greater than five (5) acres requires rezoning to the Mineral Resource District (to be adopted by the Board of Supervisors).
7. Oil and gas wells.
8. Solid waste disposal sites and land fills.

9. The raising, feeding, maintaining, and breeding of poultry, fowl, rabbits, fur-bearing animals, and the like, for other than domestic purposes.

10. Commercial hog and pig farms.

11. Dairies.

12. Livestock feed yards, confined veal calf raising.

13. Commercial stables, riding academies and hunting clubs.

14. Commercial aquaculture.

15. Commercial mushroom farming.

16. Wholesale nurseries and greenhouses for the indoor propagation and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables and similar crops.

17. Small and intermediate wineries.

(c) Residential Uses:

1. Single-family dwellings or mobile homes permitted in Section 26C-81(c) when located within view from any public road.

2. Farm labor camps and structures for transient labor employed on the premises.

3. Guest ranches, country inns.

(d) Incidental Uses:

1. Private landing strips.

2. Group care facilities for seven (7) or more residents.

3. Commercial recreation facilities such as campgrounds, fishing resorts, and the like.

4. Religious structures, uses, or retreats which do not adversely affect the primary purpose of the district.

5. Agricultural and environmental schools and research facilities which do not adversely affect the primary purpose of the district.

6. Equipment storage yards incidental to resource management, including parking, repairing and storage of equipment so used.

7. Accessory structures, or uses incidental and appurtenant to any use for which a use permit has been granted or is required.

8. Water conservation dams and ponds.

9. Directional signs, additional appurtenant signs, and additional appurtenant sign area subject to sign regulations (Article 37 current zoning ordinance Article 26) and design review (Article 50).

10. Public service and utility uses, including incidental business offices, fire stations, police stations and detention facilities, telephone equipment buildings, power stations, transformer stations, transmission lines, pumping stations, reservoirs, storage tanks, communications stations and facilities and service yards, sewage treatment plants and disposal facilities, water systems and parks which do not adversely affect the primary purpose of the district.

Sec. 26C-83. Bulk and parking standards.

(a) Minimum Lot Size for Creation of New Lots.

(1) Not less than sixty (60) acres unless a different area is permitted by any "B" combining district (Article 33).

(b) Minimum Yard Requirements.

(1) Front yard required: Ten percent (10%) of the depth of the lot, but not more than one hundred feet (100') nor less than thirty feet (30').

(2) Side yard required: Ten percent (10%) of the width of the lot, but not more than fifty feet (50').

(3) Rear yard required: Fifty feet (50').

(4) Additional setbacks may be required within certain sensitive areas, riparian corridors, scenic corridors, areas of critical habitat, unique feature areas as designated in the general plan or specific plans.

(5) Cornices, eaves, canopies, bay windows, fireplaces and/or other cantilevered portions of structures, and similar architectural features may extend two feet (2') into any required yard. The maximum length of the projections shall not occupy more than one third (⅓) of the total length of the wall on which it is located. Uncovered porches, fire escapes or landing places may extend six feet (6') into any required front or rear yard and three feet (3') into any required side yard.

(6) Accessory buildings may be constructed within the required yards on the rear half of the lot; provided, that such buildings shall not occupy more than thirty percent (30%) of the width of any rear yard. Such accessory buildings shall not be located closer than ten feet (10') to the main buildings on adjacent lots. Notwithstanding the foregoing, swimming pools may occupy more than thirty percent (30%) of the width of any rear yard. A minimum of three feet (3') shall be maintained between the wall of a pool and the rear and side property lines, and from the main building on the same lot. Conventional pool accessory equipment (pump, filters, etc.) shall be exempt from setback restrictions. Additional setbacks may be required under the Uniform Building Code.

(c) Maximum Building Height.

(1) Fifty feet (50'), provided that additional height may be permitted where special structures are required if a use permit or use permit waiver (Section 26C-472) is first secured in each case.

(d) Parking.

(1) On-site parking shall be provided for a minimum of two (2) vehicles for each dwelling unit.

(2) On-site parking shall be screened from view from public roadways by natural vegetation, landscaping, natural topography, fencing or structures.

(3) On-site parking shall not block emergency vehicle accessways or turnarounds. (Ord. No. 4927 §§ 2 (part), 12 (part), 1995.)

Article IX. AS Agricultural Services district.

Sec. 26C-90. Purpose.

To provide areas for processing and servicing of local agriculture in reasonable proximity to areas of agricultural production. The "AS" district may be applied to lands within the general plan's "Undeveloped," "General Agriculture," "Orchards and Vineyard," and "Agriculture and Residential" land use categories. This zone allows uses involving greater capital investment, animal density, employee density, and truck traffic than uses in the "AE" and "AP" districts. Applications for "AS" zoning shall be accompanied by a specific project proposal.

Sec. 26C-91. Uses permitted subject to site development and erosion control standards (Article 51).

The following uses are permitted except within a sensitive area, riparian corridor, scenic corridor, area of critical habitat, or unique feature designated in the general plan or specific plans, in which case a use permit or use permit waiver (Section 26-C-472) may be required. All clearing of vegetation, grading, excavation, fill or construction in association with these uses shall conform to the site development and erosion control standards (Article 51).

(a) Principal Uses:

(1) Agricultural processing plants and facilities, such as small, intermediate and large wineries, dehydrators, canneries and similar agricultural uses, including incidental retail sales or agricultural products processed on the premises.

(2) Animal processing plants, rendering plants.

(3) Fertilizer plants or yards.

(4) Animal hospitals, shelters, kennels and veterinary clinics.

(5) Minor agricultural services which serve the immediate vicinity including blacksmithing, welding, small machinery repair, and the like.

(6) Storage facilities for raw and processed agricultural products.

(7) Animal sales yards.

(8) Wholesale nurseries and greenhouses for indoor propagation and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables and similar crops.

(9) One (1) stand for the sale of agricultural products grown on the premises, subject to the requirements of design review (Article 50).

(b) Residential Uses:

(1) One (1) dwelling unit or mobile home as an accessory use only, to be used as the residence of the owner, operator, or caretaker of the permitted use.

(2) Temporary farmworker housing which meets the standards set forth in Section 26C-450(i). Temporary farmworker housing shall also conform to additional public health, building and fire safety criteria established by resolution or ordinance of the board of supervisors.

(c) Incidental Uses:

(1) Accessory structures or uses incidental and appurtenant to any permitted uses including barns, sheds, and corrals.

(2) Accessory structures or uses incidental and appurtenant to a single-family dwelling including:

a. Home occupations.

b. Hobby greenhouses up to one thousand (1,000) square feet in floor area.

c. Non-commercial kennels for up to ten (10) dogs.

d. Non-commercial stables.

e. The raising, feeding, maintaining, and breeding of poultry, fowl, rabbits, fur bearing animals, and the like, for consumption by the persons residing on the property.

(3) Appurtenant signs subject to sign regulations (Article 37 current zoning ordinance Article 26) and design review (Article 50). (Ord. No. 4166, 1990.)

IV. OBJECTIVES, POLICIES, AND IMPLEMENTATION PROGRAMS

Objective A-1. Agricultural Areas. To enhance, support, promote and protect agricultural land uses and the agricultural industry in Marin County, in the Inland Rural and Coastal Recreation Corridors, and in the Bayfront Conservation Zone of the City-Centered Corridor, through the protection of the agricultural land base from conversion to non-agricultural uses and through the encouragement of sustainable agricultural practices.

A. PRESERVATION OF AGRICULTURAL AREAS IN THE INLAND RURAL AND COASTAL RECREATION CORRIDORS

Policy A-1.1 **Preservation of Agricultural Lands.** Agricultural lands shall be preserved by maintaining agricultural parcels in sizes large enough to sustain agricultural production, avoiding conversion of agricultural land to non-agricultural uses, discouraging uses which are not compatible with long term agricultural productivity, and encouraging programs that assist agricultural operators and owners in maintaining the agricultural productivity of their land and marketing their products.

Program A-1.1a Land uses of Inland Rural and Coastal Recreation Corridors. The County shall encourage land uses of an agricultural or open space nature which serve to maintain agriculture in the Inland Rural and Coastal Recreation Corridors.

Program A-1.1b Very Low Density Agricultural Zoning. The County shall maintain very low density agricultural zoning in the Inland Rural and Coastal Recreation Corridors to discourage conversion of agricultural land to non-agricultural uses.

Program A-1.1c Agricultural Zoning Study and Code Revisions. The County shall review and prepare appropriate revisions to its primary agricultural zoning regulations for the purpose of creating a uniform approach to the protection and preservation of long term agricultural use of agricultural land. Such changes should include clustering provisions, appropriate development standards, a better description of non-agricultural uses which are compatible with long term agricultural land uses and which enhance the economic vitality of agricultural operations, and the requirement for the use of planned district zoning designations.

Program A-1.1d Transfer of Development Rights. The County shall conduct a study to determine if Transfer of Development Right (TDR) programs should be applied to all lands currently zoned "A" to support continued agricultural uses in Marin County. This study

POTHOLES

19

should also consider the appropriateness of designating receiver sites or receiver site areas.

Policy A-1.2 **Agricultural Education.** The County supports agricultural education, and those efforts to help the public understand the importance of agriculture in Marin County and the conservation of land for agricultural use. The County shall encourage the Marin County Office of Education and all local school districts to develop and implement a curriculum to emphasize the importance of agriculture.

Program A-1.2a Designation of Agricultural Areas. In an effort to inform residents and visitors of the importance to the County of agriculture, the County may identify agricultural areas by the placement of appropriate visible signs on roads and highways at the point at which they enter agricultural areas.

Policy A-1.3 **Agricultural Parcels.** The County shall discourage subdivision of agricultural lands except where the Planning Commission can make the findings that a proposed division or subdivision enhances the long term agricultural use of the land. If subdivision of agricultural land occurs, development shall be clustered in a manner which encourages the maximum protection of agricultural lands.

Program A-1.3a Williamson Act. The County shall continue its participation in the Williamson Act program and shall encourage agricultural landowners to contract with the County on a voluntary basis to restrict the use of their land in exchange for taxation of the land based on its agricultural use.

Program A-1.3b Williamson Act Parcels. The County should add a clause to all future Williamson Act contracts which prohibits subdivision of the land under Williamson Act contract for the duration of the contract, unless the Board of Supervisors can make the findings that a proposed division or subdivision enhances the long term agricultural use of the land.

Policy A-1.4 **Development in Agricultural Areas.** Any subdivision and/or nonagricultural development allowed on agricultural lands shall be consistent with objectives and criteria which promote the long term agricultural use and productivity of the specific parcel being proposed for subdivision and/or development. If subdivision and/or development of agricultural lands occurs, the County shall require clustering or grouping together of allowable dwelling

units on relatively small parcels comprising not more than 5% of the total area of the parcel(s) being subdivided. Conversely, 95% of the total area of the parcel(s) being subdivided shall be preserved for agriculture and open space. These clustering provisions may be modified if the County can make findings that the long term agricultural use and productivity of a specific parcel can be enhanced through an alternative form of subdivision or development.

Program A-1.4a — Agricultural Zoning and Subdivision Regulations Revision. The County shall prepare and adopt modifications to its agricultural zoning and subdivision codes in order to create a uniform approach to preservation of agricultural lands. Such modifications shall include requirements for clustering of subdivided lots and permanent preservation of 95% of the gross acreage for agriculture and open space purposes, consistent with Policy A-1.4. These issues shall be reflected in the zoning study identified in Program A-1.1c.

Policy A-1.5 — **Agricultural Conservation Easements.** The County shall encourage the acquisition and/or dedication of perpetual agricultural conservation easements in order to permanently preserve agricultural lands for agricultural uses.

Program A-1.5a — Agricultural Conservation Easements Program. The County shall establish a program to obtain agricultural conservation easements or to assist in the acquisition of such easements by an appropriate agency or non-profit land trust.

B. AGRICULTURAL LANDS IN THE BAYFRONT CONSERVATION ZONE OF THE CITY-CENTERED CORRIDOR

Policy A-1.6 — **Agricultural Lands in the Bayfront Conservation Zone.** Recognizing that agricultural land is a non-renewable resource, the County will, to the extent feasible and legal, preserve productive agricultural land in the Bayfront Conservation Zone of the City-Centered Corridor. Development projects which would affect such lands should be designed to minimize loss of productive agricultural land and/or mitigate impacts on agricultural production.

Program A-1.6a — Identify Agricultural Lands in the Bayfront Conservation Zone. The County shall identify productive agricultural lands in the Bayfront Conservation Zone which might be kept in agricultural production.

Bill Barboni
1032 Hicks Valley Rd.
Petaluma, CA 94952

Chief of Staff Don Young
Committee on Resources
1324 Longworth, HOB
Washington, D.C. 20515-6201

Dear Mr. Young,

As fourth generation Marin County farmers, we are dedicated to the preservation of agriculture in Marin. However, we do not feel that the Point Reyes National Seashore Farmland Protection Act is the appropriate vehicle to accomplish this. We have property within the proposed park boundaries, and are supporters of farmland trusts. In fact, we have sold development easments on this property to Marin Agricultural Land Trust. We do not wish to have the property added to the National Park System and are opposed to the Act as long as the funding would require park inclusion.

Sincerely,

Bill Barboni

Bill Barboni Family

22

7-7-97

I a landowner, oppose the expansion of the Pt. Reyes National Seashore Protection act - Bill H.R-1995 - proposed by Woolsey, Campbell Dooley - Gilchrest, Thompson and Condit, for the following reasons -

This bill is a waste of taxpayers money
The bill is not Voluntary
The bill will not preserve Agriculture.
The bill is with insufficient funds.
The bill will compound the Williamson Act.
and also the Coastal Commission.

This bill is opposed by the Sonoma Co. Taxpayers Ass, the Sonoma Co. Farm Bureau - the Marin Co. Farm Bureau, the North Bay Wool Growers and the California Cattlemens Association.

A lot of issues coming from Woolseys Office is a lot of false information.

Sincerely Yours
Helen B. Branche
15,400 - 7 High I. Valley Ford
Calif. 949.7?

THE BORELLO RANCH & QUARRY

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CA 94956

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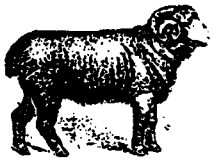

23

June 20, 1997

Congressman James V. Hansen
Chair: Subcom. National Parks & Public Lands
2466 Rayburn House Office Bldg.
Washington, DC 20515

Subject: Point Reyes Farmland Protection Act 1997
Congresswoman Lynn Woolsey, Sponsor

Dear Congressman Hansen:

The last time this proposed legislation was presented to your committee in 1994 it was referred to as the Point Reyes National Seashore Protection Act. Now it is called a "Farmland Protection Act" (see attached May 16, 1997 article). To us ranchers affected by the act, it is the same wolf now in sheep's clothing: an under funded attempt to expand the boundary of the Point Reyes National Seashore without compensating the land owners within that boundary.

"Farmland Protection" per se in this specific area is unnecessary ! Most of the land inside the boundary is already protected by The State of California Williamson Act, existing strict Marin County 60 acre minimum zoning (AZ-60), and the California Coastal Commission. In addition "development" (condos, housing tracts, etc.), which is claimed to be the present threat to this farmland, requires substantial amounts of potable water. Such adequate water supplies are simply non-existant in the 30,000 acre boundary area. The proposed act in reality is an attempt to preserve the view shed of an elite minority none of whom are Ranchers &/or Farmers !

Most of us within the boundary who are Ranchers and Farmers have been opposed to this oppresive legislation since Cong. Woolsey first pulled it out of her hat. I quote from a letter sent to Cong. Pombo of your committee in August 1995. It was signed by over 60 individuals, many of whom are Ranchers !

"When the federal government passes legislation to establish boundaries for a park, wildlife refuge or preserve of any kind, it gives a loud and clear resounding signal to everyone that it clearly intends to purchase the lands within those designated boundaries... although no money is appropriated for acquisition.

Continued....

24

This boundary legislation as proposed will cast a "cloud" over all the properties inside that boundary. Property ownership within the boundary will be paralyzed since the ability to use or transfer land would be seriously hindered by the federal presence. Who logically would spend time, effort, and money to purchase and improve property if it ultimately will be taken by the federal government ? The answer is: no one ! Therefore, this proposed boundary legislation would <u>definitely</u> restrict property rights ! ! !"

On behalf of myself and my many rancher friends I send this letter and collection of clippings and letters going back several years. The newspaper articles clearly indicate the opposition of the ranching community within the proposed boundary to Cong. Woolsey's "Farmland Protection Act".

It is an just one more attempt to condemn our land without adequate compensation !

Under our U.S Constitution, this is not right !

Judy Borello

Judy Borello, Rancher

Copies to Congresspersons:

Gallegly	Radanovich
Duncan	Jones
Hefley	Shadegg
Gilchrest	Ensign
Pombo	R. Smith
Chenoweth	Hill
L. Smith	Gibbons

Don Young

MARIN Marin Independent Journal 25

Farm Bureau opposes buffer; Woolsey presses on

By Brad Breithaupt
Independent Journal reporter

Rep. Lynn Woolsey, failing in her attempt to win over the Marin County Farm Bureau, is still pressing forward with her bill to create a 38,000-acre farmland buffer along the east side of Point Reyes National Seashore.

The Farm Bureau Wednesday night voted 9-7, reaffirming its opposition to Woolsey's effort.

But the Petaluma Democrat said yesterday she will continue to push the bill, stressing that it has widespread public support in Marin and Sonoma counties. She added that the narrow split of the Farm Bureau board is also an indication of strong support among West Marin ranchers.

Woolsey tried to win over the Farm Bureau when she reintroduced the legislation in March, reshaping the bill to answer some of the objections of the Farm Bureau leadership.

The $30 million bill would preserve ranchlands from development by acquiring building rights. Modeled after the home-grown Marin Agricultural Land Trust, the legislation could be a national model for expansion of federal parklands at a fraction of what it would cost for outright purchase, Woolsey said.

As with the structure of MALT, which has already preserved more than 25,000 acres of West Marin ranchland, the proposal to buy development rights not only keeps farmlands in private ownership,

WOOLSEY: Sponsors bill to create farmland buffer along side of Point Reyes National Seashore.

but it also provides ranching families with the money they need to expand or improve their operations.

Although the bill makes the ranchers' sale of their development rights voluntary, Farm Bureau directors have objected to the expansion of the park boundaries, saying they are worried it would hamper their ranching operations and pressure them into selling their development rights.

Woolsey pulled the legislation last year after it drew opposition from the Farm Bureau. She reintroduced it this year, trying to make it more rancher-friendly by specifically permitting ranchers to continue to hunt on their land, eliminating any wording referring to the acquisition of land by eminent domain, and doubling the funds available for acquisition of development rights.

But the Farm Bureau still objects to putting the rolling pasture lands into the federal parks system, said Martin Pozzi, last year's board president.

"It's a park expansion bill," said Pozzi, who remains on the Farm Bureau board.

He said if Woolsey really wants to protect farmland, she should rewrite the bill to provide the U.S. Department of Agriculture with money to buy easements over the same turf.

"Make it a farmlands protection bill rather than a park bill by getting rid of the park boundaries," Pozzi said.

Most ranchers would be more comfortable dealing with the Agriculture Department than with federal parks officials, he said.

Former Marin County Supervisor Gary Giacomini said he favors pressing forward with the legislation, estimating that 85 percent of the property owners within the proposed park boundaries support Woolsey's bill.

60¢ 26
POINT REYES LIGHT
West Marin's Pulitzer Prize-Winning Newspaper
TOMALES BAY PUBLISHING COMPANY
March 20, 1997
Volume 1, No. 2 Point Reyes Station, California

New park bill catches ranchers offguard

By Marian Schinske

Congresswoman Lynn Woolsey Wednesday reintroduced legislation calling for $30 million to buy development rights on 38,000 acres of ranchland from Point Reyes Station to Bodega Bay.

Calling her bill a "winner for agriculture, for the people who live here, and for everyone who loves our beautiful National Seashore," Woolsey said it already enjoys bipartisan support at its first stop in the US Capitol — the House National Parks Committee.

However, despite making substantial changes to the Point Reyes National Seashore Farmland Protection Act to appease wary ranchers, Woolsey seems to be having little luck in swaying local skeptics.

Earlier this week, new Marin Farm Bureau President Gordon Thornton objected to the bill's introduction, saying Woolsey should at least wait until the next meeting of the bureau. He said the group would not change its opposition to an earlier draft of the bill until all landowners got a chance to "receive, review, and respond" to the new one.

Woolsey on Saturday presented the latest version of the bill to 150 ranchers and Tomales area residents at Tomales Bay Elementary School.

Although she insisted the bill was "not a bad deal," worries were expressed that the bill would rob Shoreline School District of property tax revenues, that drawing a boundary around acreage would automatically devalue it, and the federal government might over-regulate the land should Marin Agricultural Land Trust, which would broker the development rights, ever fold.

The essence of the bill is the same as the earlier one which stalled in the last legislative session. Willing landowners within the 38,000-acre area — which Woolsey calls an "opportunity boundary" — could sell their rights to the government through

(Please turn to Page 10)

Farmlands Protection Bill Is Falling Flat With Ranchers

27

By Don Deane

Despite proposed federal legislation which would see $30 million earmarked for the "preservation of farms and ranches" along the east side of Tomales Bay, a majority of the effected farmers and ranchers want nothing to do with the funding which would come through the Department of Interior and the United States Park Service. They say they don't trust the feds and the legislation isn't about preserving agriculture.

Rancher Sally Pozzi, wife of former Marin County Farm Bureau President Martin Pozzi, observes, "We do not believe this is going to preserve agriculture. This is a park expansion bill. Martin's family already sold theis development rights. He's committed to agriculture."

Bruce Blodgitt, Director of National Affairs of the California Farm Bureau Federation asks, "Do you want the National Park Service and the Interior Department to be your landlord? This is the major question. If this were simply a bill to sell conservation easements, that would be one thing. But you have to be part of the park to do this. The park service designation isn't going to do what the farmers and ranchers need to stay in business. Basically, they (the feds) are getting parkland on the cheap."

The bill was first introduced by Congresswoman Lynn Woolsey in 1993 as the Pt. Reyes National Seashore Expansion Bill (HR 3079). Adding the east shore of Tomales Bay to the park was the brainchild and dream of then

Continued On Back Page

Continued From Front Page

Marin County Supervisor Gary Giacomini.

In 1996 it was reintroduced as the Pt. Reyes National Seashore Farmland Protection Act. But it lacked strong support from ranchers and was killed in committee by Congressman Don Young.

In March of 1997 Woolsey introduced bipartisan legislation called the Pt. Reyes National Seashore Farmland Protection Act authorizing the Department of Interior to spend $30 million to purchase development rights from willing landowners within an eligibility boundary for farmland protection on the east shores of Tomales and Bodega Bays.

Woolsey says the legislation is all about protecting agriculture.

"Good ideas survive," Woolsey said last week. "I've been meeting with dozens of landowners and the more they understand the bill the more comfortable they are with it. Misinformation has gotten in the way of it moving forward. We're sending out the bill I introduced to all the landowners. Those who are hard-core opponents disagree philosophically. I believe at this point if it's philosophical, I can't bridge the gap."

Longtime community leaders such as rancher Boyd Steward say the legislation will do much to guarantee agriculture's future in Marin. Opponents say the legislation will do nothing positive for agriculture.

Gordon Thurnion, Farm Bureau President, says, " They really haven't changed the bill since last year. There were a few word changes, condemnation was taken out. The majority of the people at the March meeting were against the bill and the farm bureau has not changed its position. It does nothing for ranchers and farmers. The $15 million ties up the land for a long time, it's a cloud on the land. Malt has done a good job with ranches. But within the park there are many more restrictions. There's already 60 percent of our county in parkland. We don't need any more."

Rancher Judy Borello, observes, "Once you are in the zone, you are under the auspices of the park. What's scary is the ranches will be under the original park bill and you can't do anything to threaten the character or the enhancement of the park. There really needs to be the money to give the ranchers the choice to get out, be bought out in fee. There's not enough to take care of everybody. There isn't enough money to buy everyone out. It will pit rancher against rancher. My view is over 60 percent of the ranchers oppose this bill. If we go with this bill it weakens agriculture."

Thor Spargo, Judy Borello's son with a masters degree in agribusiness, says, "It weakens agriculture because we never get fair market value for the land. Your land is abandoned from the free market even for borrowing. You put a strangle-hold on future generations. This land is the way it is because a bunch of ranchers have kept it this way for a lot of years."

COASTAL POST
May '97

28

Bordessa Dairy

Gary and Sandy Bordessa
P.O. Box 397
Valley Ford, CA 94972

July 13, 1997

The Honorable Don Young
U.S. House of Representatives
Washington DC 20515

Dear Mr. Young,

I am a farmer residing in Valley Ford, California. My property is in the proposed boundry of the bill HR 1995, The Point Reyes Farmland Protection Act of 1997. I want you to know that I am very much against this bill.

This bill says it wants to protect agriculture land. Our land is already being protected by The Williamson Act, The Coastal Commission and local zoning laws which prohibit developement.

This bill says it is voluntary. To sell our easement is voluntary but to be in the boundry of the Point Reyes National Seashore (and follow their regulations) is not voluntary.

There is not enough funding to purchase all the easements within this boundry.

Most important, this is a waste of taxpayers money and will benefit a very few people.

The majority of landowners that are in this boundry do not want to be part of a federal easement program. Our county already has an easement program with funds for those landowners interested is selling their easements.

We have attended many local meetings to express our feeling of opposition to this bill. By far the majority of the community has expressed their continued opposition to this bill. Our representative, Ms. Lynn Woolsey stated many times that she would not continue to push this bill unless she had the landowners support. She has ignored the landowners who are against the bill and now the bill is going through the hearing process.

Mr. Young, I hope you will consider what I have said. I would like to hear from you regarding your oppinion of the bill HR 1995.

Thank you for your consideration.

Sincerely,

Sandy Bordessa
Gary Bordessa

Gary Bordessa
Sandy Bordessa

29

July 12, 1997

The Honorable Don Young
U.S. House of Representatives
Washington, D.C. 20515

Dear Honorable Young:

I am writing in opposition to H.R. 1995, Woolsey. H.R. 1995, if passed will add an additional 38,000 acres of prime agricultural land to the Point Reyes National Sea Shore.

This bill will not preserve agriculture and is being used to specifically expand the Point Reyes National Seashore Park and has no intention of preserving agriculture.

More than 75% of the lands that are include in this bill are already protected my the Willia,son Act ot by the Marin Agriculture Land Trust. This Bill is a complete waste of Taxpayers money and duplicates established laws of Zoning in Sonoma and Marin Counties.

I urge you to oppose 1995.

Thank you for your consideration in this regard.

Sincerely,

George Bottarini
P.O. Box 308
Penngrove, Ca 94951

Silver

30

Roger Braun
11 Waverly Rd.
S. Anselmo 94960

March 21, 1997

The Honorable Lynn Woolsey
U.S. House of Representatives
439 Cannon Building
Washington D.C. 20515

Dear Honorable Woolsey,

Please stop working on the proposed Pt. Reyes National Seashore Farmlands Protection Act. You promised that you would not introduce this bill without landowner or Farm Bureau support and we do not support it.

I am a landowner who will be directly affected and I oppose being included in the expansion of the Pt. Reyes National Seashore.

Sincerely, Roger Braun
Lorraine Braun

cc: Don Young
James Hansen
Richard Pombo
Dianne Feinstein
Barbara Boxer,
Steve Kinsey
Harry J. Moore
Marin County Farm Bureau
Sonoma County Farm Bureau

Manuel A. Brazil Ranches

♦♦♦

P.O. Box 750115 ♦ Petaluma, CA 94975
Phone (707) 762-7655 ♦ Fax (707) 762-7656 ♦ Home Phone (707) 763-6789

31

July 10, 1997

Honorable Lynn Woolsey
U.S. House of Representatives
439 Cannon Building
Washington, D.C. 20515

Dear Honorable Woolsey,

I am aware of the changes to the Pt. Reyes National Seashore Farmlands Protection Act. However, I still remain **adamantly against it!** In fact, I have been to numerous meetings and the great majority of property owners within the boundary remain **strongly opposed.** Though there are certain political entities who are *not* representing the majority I strongly feel it would be in the best interest to *concur with the majority of the property owners who want this bill stopped.*

The majority of the property owners, who have formed an alliance, and many farm organizations are prepared to go to any extent to stop this bill. It would be in the best interest of government to *stop* this bill now. It is *not* in the best interest of agriculture to continue it.

Should you wish to meet with myself or any of our alliance we will most certainly arrange it. Thank you in advance for listening to the majority of the property owners who want this bill stopped and who remember your earlier promise *not* to continue this bill without landowner support.

Sincerely,

Manuel A. Brazil

cc: Gary Condit
Tom Campbell
James Hansen
Dianne Feinstein
Steve Kinsey
Don Young
Calvin Dooley
Dan Smith
Richard Pombo
Barbara Boxer
Harry J. Moore
Marin County Farm Bureau
Sonoma County Farm Bureau

32

I AM WRITING IN OPPOSITION TO MS. WOOLSEY'S BILL HR 1995 " POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT. I OWN FARMLAND WITHIN THIS PROPOSED PROTECTION AREA. WHEN THESE SAME AGRICULTURAL LANDS ARE ALREADY PROTECTED BY RULES AND REGULATIONS RESTRICTING RANCHERS TO RESPONSIBLE AGRICULTURAL AND ENVIRONMENTAL PRACTICES WITH NO CHANCE FOR DEVELOPMENT

PLEASE RESISTER MY VOTE AGAINST THIS BILL.
THANK YOU,

Steve Brumm

33

I, A LANDOWNER, OPPOSE THE EXPANSION OF THE PT. REYES NATIONAL SEASHORE PROTECTION ACT, BILL HR 1995, PROPOSED BY REPRESENTATIVES WOOLSEY, CAMPBELL, DOOLEY, GILCHREST, DINGELL, AND CONDIT, FOR THE FOLLOWING REASONS:

THE BILL WILL NOT PRESERVE AGRICULTURE.
THE BILL IS NOT VOLUNTARY.
THE BILL WILL NOT HAVE ENOUGH FUNDING.
THE BILL DUPLICATES ESTABLISHED LAWS AND ZONINGS.
THE BILL IS A WASTE OF TAXPAYER'S MONEY.

THIS BILL IS OPPOSED BY THE SONOMA COUNTY TAXPAYER'S ASSOCIATION, THE SONOMA COUNTY FARM BUREAU, THE MARIN COUNTY FARM BUREAU, THE NORTH BAY WOOL GROWERS, AND THE CALIFORNIA CATTLEMEN'S ASSOCIATION.
PLEASE DO NOT BE MISLED BY FALSE INFORMATION COMING FROM WOOLSEY'S OFFICE.

I PROTECT THE ENVIRONMENT.
I PRESERVE AGRICULTURE.
I AM A TAXPAYER AND I OPPOSE THIS BILL.

Name	Address	# acres	parsel #
LeRoy Arrini	15999 Hwy 1 Valley Ford	239	026-030-010-000

34

Congresswoman Woolsey
U.S. House of Representatives
439 Cannon Building
Washington D.C. 20515

Dear Congresswoman Woolsey,

I am a landowner who opposes your proposed Pt. Reyes National Seashore Farmland Protection Bill which would expand the National Park to include 38,000 acres of privately owned land. Making this land part of the Park boundary as the legislation states is not voluntary and will not save farmland (we must be profitable to farm). Many of the landowners will receive no compensation. The majority of landowners affected, who have protected the land, oppose their land becoming part of the Park. This land is not threatened because:

- The land has some of the most restrictive zoning in the Nation including California Coastal Commission, Gulf of Farlones Sanctuary, Marin and Sonoma Planning Departments, Williamson Act, and Marin Ag Land Trust, all with many limitations on this land
- 11,000+ acres are permanently protected from development and committed to ag through a local land trust.
- There have been less than 5 building permits issued for new homes in over 10 years on the 38,000 acres.

The proposed legislation adds another layer of government, potentially making viable agriculture unfeasible, as well as making it possible (and likely) for the government to take these productive lands for a Park.

History shows, privately owned lands are the best way to keep this area pristine. How about legislation which would reward the good stewardship of these landowners (which the public now enjoys) on an incentive and completely voluntary basis!

Sincerely, Roy Crum

35

John M. Coletti, Jr.
1286 SE 38th Avenue
Hillsboro, Or 97123

July 14, 1997

Representative Don Young

Dear Representative Young:

I write in opposition to Congresswoman Woolsey's bill HR1995 "Point Reyes National Seashore Farmland Protection Act". I am a member of a family who owns several hundred acres of land within the boundary proposed as "park", by this bill. This land has been used for agriculture purposes by my family for generations and the proposed bill represents a duplication of already existing legislation, is redundant in providing environmental protection as strenuous measures are already in place, has little or no constituency among the people affected, and represents and extraordinary cost to the taxpayers for no significant gain. Though it may have political merit it has little merit in protecting the already beleaguered American farmer.

Most sincerely yours,

John M. Coletti, Jr.
JMC

Property address:
2799 Dillons Beach Road

generation IV

MS. WOOLSEY HAS INTRODUCED HER BILL, "THE PT. REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT" WITHOUT THE APPROVAL OF THE AGRICULTURAL LANDOWNERS OR THE FARM BUREAUS. SHE HAS MADE FALSE PROMISES AND HAS BEEN SELECTIVE IN THE DISTRIBUTIONS OF HER MATERIALS AND THE INVITATIONS TO HER MEETINGS. HER BILL DUPLICATES LEGISLATION PROTECTING THESE SAME FARMLANDS AND THEIR DEVELOPMENT RIGHTS. PLEASE BLOCK HER BILL.

OUR LANDS ARE PROTECTED BY A MYRIAD OF RULES AND REGULATIONS IMPOSED BY COUNTY, STATE, AND FEDERAL AGENCIES; MALT, SALT, WILLIAMSON ACT (A LAND CONSERVATION ACT), MARIN AND SONOMA COUNTY AGRICULTURAL ZONING OF 60 OR 120 ACRES PER DWELLING, THE COASTAL COMMISSION, AND THE GULF OF FARALLON NATIONAL WILDLIFE SANCTUARY, TO NAME A FEW. THESE RESTRICT RANCHERS TO RESPONSIBLE AGRICULTURAL AND ENVIRONMENTAL PRACTICES AND PROTECT THESE LANDS FROM DEVELOPMENT.
PLEASE BLOCK HER BILL.

MS. WOOLSEY'S AREA MAP OF PROPERTIES ELIGIBLE FOR FUNDING (MAP ENCLOSED) FAILED TO "HIGHLIGHT" THE AREAS ALREADY PROTECTED BY THE WILLIAMSON ACT, THE COASTAL COMMISSION, AND THE GULF OF FARALLON NATIONAL WILDLIFE SANCTUARY. A RED LINE SHOWS MARIN COUNTY AND SONOMA COUNTY AGRICULTURAL ZONING OF 60 OR 120 ACRES PER DWELLING. ASK MS. WOOLSEY FOR A "MAP OVERLAY" SHOWING YOU HOW THESE ACTS ALREADY PROTECT THESE SAME AGRICULTURAL FARMLANDS AND SEASHORES. THIS AREA CAN NOT BE DEVELOPED. DO NOT SUPPORT THIS BILL AND ASK TAXPAYERS TO SPEND $80,000,000.00 TO DUPLICATE LEGISLATION ALREADY IN EFFECT. PLEASE BLOCK HER BILL.

"FUNDING" IS THE TRICK WORD! MS. WOOLSEY IS ASKING $30,000,000.00 FOR FUNDING FROM "PARKS" TO BUY DEVELOPMENT RIGHTS AND CONSERVATION EASEMENTS FROM AGRICULTURAL LANDS UNDER THE GUISE OF A PARK FORMING A PARTNERSHIP BETWEEN THE FARMER AND THE GOVERNMENT AND PLACING AN INVOLUNTARY PARK BOUNDARY OVER THE LANDS IN THE PROPOSED AREA. PARK ZONING AND AGRICULTURAL ZONING ARE NOT COMPATIBLE AND THE PARK BOUNDARY IS NOT VOLUNTARY. MS. WOOLSEY'S BILL IS FUNDED ON A "MATCHING FUND BASIS". SHE HAS NEVER ESTABLISHED WHERE SHE WILL GET THE MONEY. IT IS ESTIMATED THAT AT LEAST $80,000,000.00 IS NEEDED TO PURCHASE DEVELOPMENT RIGHTS/CONSERVATION EASEMENTS ON THE LAND EARMARKED FOR PURCHASE. MS. WOOLSEY'S ATTITUDE IS THAT SHE WILL JUST ASK FOR MORE IF THERE IS NOT ENOUGH! THIS IS GOVERNMENT WASTE. IF THE RANCHERS NEED MONEY ASK U.S.D.A. WHICH HAS $ 20,000,000.00 TO FUND AGRICULTURAL CONSERVATION EASEMENTS. PLEASE BLOCK HER BILL.

WHEN THESE SAME AGRICULTURAL LANDS ARE ALREADY PROTECTED BY RULES AND REGULATIONS RESTRICTING RANCHERS TO RESPONSIBLE

AGRICULTURAL AND ENVIRONMENTAL PRACTICES WITH NO CHANCE FOR DEVELOPMENT , WHY IS MS. WOOLSEY DUPLICATING LEGISLATURE AND ASKING TAXPAYERS TO SPEND $30,000,000.00 TO $80,000,000.00 TO FIX SOMETHING THAT DOES NOT NEED FIXING. THIS IS GOVERNMENT WASTE.

PLEASE BLOCK MS. WOOLSEY'S BILL.

SINCERELY, Mary Colletti, Generation III

MARY COLETTI, ELIZABETH HANLEIN
LANDOWNER AND TAXPAYER
1286 S.E. 38TH STREET
HILLSBORO, OREGON 97123

SENT TO: HONORABLE LYNN WOOLSEY
HONORABLE JAMES HANSEN
HONORABLE DIANNE FEINSTEIN
HONORABLE DON YOUNG
HONORABLE RICHARD POMBO
HONORABLE BARBARA BOXER
STEVE KINSEY
HARRY MOORE
MARIN COUNTY FARM BUREAU
SONOMA COUNTY FARM BUREAU
SONOMA COUNTY TAX PAYERS
MARIN COUNTY TAX PAYERS

38

POZZI WILSON ATCHISON, LLP
ATTORNEYS AT LAW
14TH FLOOR STANDARD PLAZA
1100 S.W. SIXTH AVENUE
PORTLAND, OREGON 97204-1087
TELEPHONE (503) 226-3232
TOLL FREE 1-800-452-2122
FAX (503) 274-9457

DONALD ATCHISON
GREGORY A. GUNNELL
KIMBERLEY CHAPUT
JOHN M. COLETTI
ATHIV DARSHAN
DANIEL C. EBIUBA
MEAGAN A. FLYNN
DAVID A. HYTOWITZ
KEVIN KEANEY
MICHELLE K. MCCLURE
JEFFREY S. MUTNICK
ROBERT J. NEUSENGER
CHRISTOPHER J. NYE
ROBERT PARDINGTON
PETER W. PRESTON
NICHOLAS M. SENCER
RICHARD S. SPRINGER
JOHN S. STONE
KEITH E. TICHENOR
ROBERT K. UDZIELA
DONALD R. WILSON

Of Counsel
WM. A. GALBREATH

FRANK POZZI
(1920-1996)

RAYMOND J. CONBOY
(1930-1988)

PHILIP A. LEVIN
(1928-1987)

BEND OFFICE
1627 N.E. THIRD
BEND, OREGON 97701-4000
TELEPHONE (541) 388-8830
FAX (541) 383-0523

July 16, 1997

VIA FACSIMILE

The Honorable Don Young
U.S. House of Representatives
Washington, D.C. 20215

Re: POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT

Dear Representative Young:

I am writing to formally oppose Representative Woolsey's Bill HR 1995 "Point Reyes National Seashore Farmland Protection Act." My family owns several hundred acres within this park boundary which is already protected by stringent rules and regulations restricting ranchers, such as my family, to responsible agricultural and environmental practices.

Not only will Representative Woolsey's proposed legislation force tax payers to spend between thirty million to eighty million dollars, but it is both duplicative and more pervasive then stringent legislation already in place.

As landowners, my family, and the surrounding ranchers within this park boundary, have taken great steps to both preserve agriculture and protect the environment. No one appreciates more the importance of preserving these lands then the people who depend upon these lands for their livelihoods. As both a tax payer and a property owner, I oppose this bill and I ask you to do the same.

Very truly yours,

John M. Coletti

JMC:CC

Generation V

W. P. BLANCHARD
Alder Creek Ranch
Sebastopol, California 95472

39

April 14,1997

Wilmer P.and Olive S.Blanchard
14726 Morelli Lane
Sebastopol, Ca. 95472.

Honorable Lynn Woolsey
U.S. House of Representatives
439 Cannon Building
Washington,D.C.20515

Dear Honorable Lynn Woolsey,

We are writing to oppose the Pt.Reyes Seashore Farmlands Protection Act of 1997.

We own and operate a four hundred and seventy five acre ranch in Sonoma county and all though we are not directly involved we object to the government taking our tax dollars to spend on such a foolish plan.

The way to save the Farmland is for the government to get out of the way and let the farmer make a living. We have all the Government regulations and uninvited visitors we need.

Sincerely,
Olive S. Blanchard
Olive S. Blanchard
Wilmer P. Blanchard
Wilmer P.Blanchard

Print of this letter and Mary Coletti's memo about Ms Woolsey's Point Reyes Seashore Farmlands Protection Act of 1997 are sent to the following:
The Honorable Trent Lott
The Honorable Newt Gingrich
Governer Pete Wilson
The Honorable Frank Riggs
Sonoma County Supervisor Michael Reilly
Sonoma County Taxpayers' Association President Cal Stead
If more information about the rancher's predicament is desired please contact
Sally and Martin Pozzi
P.O. Box 246
Valley Ford, Ca. 94972
Phone 707- 766-9028

generation III

40

I AM WRITING IN OPPOSITION TO MS. WOOLSEY'S BILL HR 1995 " POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT. MY FAMILY OWNS 393 ACRES WITHIN THIS PARK BOUNDARY. WHEN THESE SAME AGRICULTURAL LANDS ARE ALREADY PROTECTED BY RULES AND REGULATIONS RESTRICTING RANCHERS TO RESPONSIBLE AGRICULTURAL AND ENVIRONMENTAL PRACTICES WITH NO CHANCE FOR DEVELOPMENT, WHY IS MS. WOOLSEY DUPLICATING LEGISLATURE AND ASKING TAXPAYERS TO SPEND $30,000,000.00 TO $80,000,000.00 TO FIX SOMETHING THAT DOES NOT NEED FIXING ? THIS IS A WASTE OF OUR TAX DOLLARS. I PROTECT THE ENVIRONMENT. I PRESERVE AGRICULTURE. I AM A TAXPAYER AND I OPPOSE THIS BILL.

Elizabeth C. Callison
1637 Eldredge Lane
Windsor, CA 95492

generations I

41

Mrs. Elizabeth Hanlein
33 Blanca Drive
Novato, California 94947
March 31, 1997

Honorable Lynn Woolsey
U.S. House of Representatives
439 Cannon Building
Washington, D.C. 20515

Dear Honorable Woolsey,

This letter is written to voice my **opposition** to the proposed Agriculture Protection Act that you have introduced. I have been to numerous meetings concerning this issue, and I along with the **majority** of land owners in this area have told you that we do **not** want this bill, we do **not** want to be in the boundary, we do **not** want the added restrictions upon our property paid for by our tax money. You have lied to us, saying you would not go further with this bill if there was opposition from the landowners. There is opposition from the landowners, the Sonoma Farm Bureau, the Marin Farm Bureau and the Sheep and Cattlemen's associations. You claim you have heard from a majority, but, in the past seven meetings I have personally attended, these landowners have not come forward. You have not produced a survey or vote; you just claim to have a majority, one that we are to believe because you are our "Representative."

We have maintained our property (400 acres) in our family for five generations. We resent big government coming in and arbitrarily drawing a boundary line around our property. I am appalled at your disregard for the rights of tax-paying landowners.

Sincerely,
Elizabeth B. Hanlein

cc: Marin Farm Bureau
Sonoma Farm Bureau
Steve Kinsey, Fifth District Supervisor
Harry J. Moore, Chairman of the Board of Supervisors

Generation IV

42

GARTH AND IONE CONLAN
MARIN COUNTY RANCH
P.O. BOX 970
CAPITOLA, CA 95010
TELEPHONE (408) 462-5974 & (408) 633-3720
24 HOUR FAX: (408) 462-1589 & (408) 633-4889
AUGUST 1, 1997

The Honorable Lynn Woolsey
U.S. House of Representatives
Washington D.C. 20515

Dear Ms. Woolsey:

We regret we were unable to meet with you in February, when you called a meeting with concerned landowners and ***canceled out*** at the last moment. You should know that a large number of all concerned landowners gathered en mass for that meeting, to let you know how we felt about your proposed, "Pt Reyes Farmland Protection Act" HR 1135.

Many of us made an enormous effort, as did we, leaving at home a senior relative that was in heart and renal failure, just to have an opportunity to voice our concerns. This meeting was followed by another such meeting, to which we were not invited, you have consistently selected and edited your audiences carefully. This is hardly fair play.

You obviously do not understand the passion and revolt that is brewing among your constituency and the landowners from whom you intend to extract your pound of flesh. **We the farmers and ranchers landowners, do not want you to include our land in your personal "Woolsey Memorial Park".** We as landowners do not want you to include our land in your own personal "to remember you by" park agenda. The American taxpayer has had enough of this boondoggling.

Why should you be allowed to confiscate our land? Why should you endanger the farmers and ranchers of Marin County? We are members of the Farm Bureau, Cattlemen's Association, Lifetime Members of the Sierra Club, The California Oak Foundation, Water for Life, and many other organizations along with our fellow American citizens who agree that you are totally **misguided, mistaken, and out of control when you seek to confiscate private farmland from farmer's and ranchers in Marin and Sonoma Counties.**

Sincerely,

Garth & Ione Conlan

GARTH AND IONE CONLAN

43

4/24/97

Sally Tiers:

I am writing to let you know that I still oppose the Padfo Bill as written. You were promised changes that have not been made.

Sincerely
Dana Furlong

44

July 14, 1997

Fax: (202) 225-5857

The Honorable James Hanson
U.S. Congress
Washington, DC

Dear Representative Hanson:

We are the owners of approximately 260 acres, just north and adjacent to Tom's Point (APN 104-040-29). In its current form, we are strongly opposed to the Point Reyes National Seashore Farmland Protection Act of 1997 (H.R. 1995) and ask that you reject it for the following reasons.

Through the mechanism of a "conservation easement," the property owner will lose all rights and privileges to that part of their property in which such an easement would be taken. What will be done with the easement, the location of the easement on the property, etc., would have a severe and damaging impact on the remainder of the property. The value of the total property is put at risk and the financial burden is borne solely by the property owner. This is unreasonable. We cannot agree to or accept such a potentially callous and cruel provision.

We hope we can count on your not allowing this bill to be enacted into law.

Thank you for your help.

Sincerely,

Peter G. Gordon Kristin V. Gordon

Fax: (415) 381-2516
Phone: (415) 388-8597

45

Sonoma County Farm Bureau.

April 24-1997

To: Board of Directors:

RE: Point Reyes National Seashore Farmland Protection Act of 1997

I am a second generation rancher living in Marshall, CA and owning 1000 acres of land. This land has been in our family for 57 years.

The Act was created to get funds to buy development rights on Ag land. It does this by placing a boundry around the proposed area and adds this land to the Point Reyes National Seashore Park. All of the land will come under the jurisdiction of the Dept of Interior, which will add an unwanted layer of bureaucracy governing ag land.

The best way to obtain funds is through the USDA program. It understands agriculture needs and would eliminate the land from being designated park land.

I would appreciate a vote to oppose this Act. It is not in Agriculture best interest

HENRY
G ROSSI

46

July 12, 1997

The Honorable Don Young
U.S. House of Representatives
Washington, D.C. 20515

Dear Honorable Young:

As a landowner, I am writing in opposition to H.R. 1995. As you know, H.R. 1995, if passed will add an additional 38,000 acres of prime agricultural land to the Point Reyes National Sea Shore.

This bill will not preserve agriculture land and is being used to specifically expand the Point Reyes National Seashore Park and has no intention of preserving or protecting agriculture.

Through H.R. 1995 prime agriculture land is involuntarily being placed in the park boundary. In addition, it is crucial for you to know that a majority of the lands are already protected by the Williamson Act, or the Marin Agriculture Land Trust (MALT). This Bill is a waste of Taxpayers money and duplicates current laws of zoning in Sonoma and Marin Counties.

I urge you to oppose 1995.

Thank you for your consideration in this regard.

Sincerely,

Phyllis J Hagemann

47

I, A LANDOWNER, OPPOSE THE EXPANSION OF THE PT. REYES NATIONAL SEASHORE PROTECTION ACT, BILL HR 1995, PROPOSED BY REPRESENTATIVES WOOLSEY, CAMPBELL, DOOLEY, GILCHREST, DINGELL, AND CONDIT, FOR THE FOLLOWING REASONS:

THE BILL WILL NOT PRESERVE AGRICULTURE.
THE BILL IS NOT VOLUNTARY.
THE BILL WILL NOT HAVE ENOUGH FUNDING.
THE BILL DUPLICATES ESTABLISHED LAWS AND ZONINGS.
THE BILL IS A WASTE OF TAXPAYER'S MONEY.

THIS BILL IS OPPOSED BY THE SONOMA COUNTY TAXPAYER'S ASSOCIATION, THE SONOMA COUNTY FARM BUREAU, THE MARIN COUNTY FARM BUREAU, THE NORTH BAY WOOL GROWERS, AND THE CALIFORNIA CATTLEMEN'S ASSOCIATION.

PLEASE DO NOT BE MISLED BY FALSE INFORMATION COMING FROM WOOLSEY'S OFFICE.

I PROTECT THE ENVIRONMENT.
I PRESERVE AGRICULTURE.
I AM A TAXPAYER AND I OPPOSE THIS BILL.

Valley Ford Calif. 94972

P.O. BOX 444
VALLEY FORD

48

MAY 1997

SALLY AND MARTIN POZZI,

AFTER READING YOUR PHOTOCOPY OF THE BILL, I OPPOSE IT. THE BILL SEEMS TO ADD ANOTHER LAYER OF GOVERNMENT THAT WE DO NOT NEED.

MY PARCEL IS 11 ACRES NEAR TOMALES BAY OYSTER CO.

Edward Johansson
EDWARD JOHANSSON
BOX 3803
SANTA ROSA CA 95402

49

I, A LANDOWNER, OPPOSE THE EXPANSION OF THE PT. REYES NATIONAL SEASHORE PROTECTION ACT, BILL HR 1995, PROPOSED BY REPRESENTATIVES WOOLSEY, CAMPBELL, DOOLEY, GILCHREST, DINGELL, AND CONDIT, FOR THE FOLLOWING REASONS:

THE BILL WILL NOT PRESERVE AGRICULTURE.
THE BILL IS NOT VOLUNTARY.
THE BILL WILL NOT HAVE ENOUGH FUNDING.
THE BILL DUPLICATES ESTABLISHED LAWS AND ZONINGS.
THE BILL IS A WASTE OF TAXPAYER'S MONEY.

THIS BILL IS OPPOSED BY THE SONOMA COUNTY TAXPAYER'S ASSOCIATION, THE SONOMA COUNTY FARM BUREAU, THE MARIN COUNTY FARM BUREAU, THE NORTH BAY WOOL GROWERS, AND THE CALIFORNIA CATTLEMEN'S ASSOCIATION.
PLEASE DO NOT BE MISLED BY FALSE INFORMATION COMING FROM WOOLSEY'S OFFICE.

I PROTECT THE ENVIRONMENT.
I PRESERVE AGRICULTURE.
I AM A TAXPAYER AND I OPPOSE THIS BILL.

Name	Address	# acres	parsel #
Ken Tanker	16750 Hwy 1		

7-7-97

Dear Co[illegible]woman Woolsey,

As the daughter of 3 generations of a Ranching family, I learned early on, you do not encumber your land.
I have been against this Bill from the begining. Almost all of the local ranchers are in the Williansen Act, which takes 7 years to get out of the contract. Marin County Zonining is 60 acres per dwelling.
Finally, this Bill is not necessary and a total waste of Taxpayers, money, IE, our money.

Sincerely, Mollie P. Ledger 2nd time

5700 Middle Road
Petaluma (Tomales)
Calif. 94952

CC. Honorable Don Young
Honorable James Hansen
Honorable Richard Pombo
The Honorable Diane Feinstein
The Honorable Barbara Boxer

Save Farmland From Becoming Parkland!

Mail To:

51

LAWSON'S LANDING

137 Marine View Drive • P.O. Box 67 • Dillon Beach, CA 94929 • 707-878-2443 • Fax: 707-878-2942

July 10, 1997

The Honorable Jay Hansen
U.S. House of Representatives
Washington, DC 20515

FAX # 202-226-2301

RE: Pt. Reyes Farmland Protection Act of 1997

Dear Honorable Hansen,

We are the landowners of thirty-nine parcels of land, nearly nine hundred and sixty acres of which four parcels, 100-100-12, 100-100-22, 100-100-21 and 100-100-60 are due to be included in the Point Reyes Farmland Protection Act of 1997. This property has been in our family for five generations and we want to pass the land on to our children and grandchildren, free and unencumbered. We want to let you know of our opposition to this act.

Since 1993 when our local supervisor Giacomini first proposed this acquisition, we have attended meetings and vocally protested this act. We have written letters to Lynn Woolsey when she took up the cause and attended meetings but have not been able to make her see our point. She insists there is no opposition to this Bill and has made her stand to your committee this way, but it just is not true. At every meeting we have attended with Ms Woolsey she has misrepresented the results to the media and other politicians. As far we can tell, at least two thirds (possibly more) of the landowners involved are against this bill. The little group who Ms Woolsey courts and wants to sell their development rights are those who are nearing retirement age and would like that extra money from the federal government. Your committee needs to know that there are active families like ours that are intent on earning a living from our land, paying our taxes (!), and doing it all without the interference of the federal, state or local government. That's all we're asking: a chance to pursue our business without having the government owning the rights to half or more of our land. Please listen to the other landowners who are in opposition to this Bill and don't let Ms Woolsey pull the wool over your eyes too. Thanks for listening!

Sincerely, Nancy L Vogler

Nancy L. Vogler and Carl W. Vogler (25% landowners)
Merle E. and Icymae S. Lawson (25% Landowners)
Michael J. and Judith I. Lawson (25% Landowners)
Chris W. and Jennifer D. Lawson (12 1/2% Landowners)
Dolores E. Lawson (12 1/2% Landowner)

52

oct 26 1997

TO WHOM IT MAY CONCERN.

IT SEEM IRONIC THAT THE NATIONAL PARK SERVICE SHOULD CALL ITS TOMALES BAY BOUNDARY EXPANSION A FARMLAND PROTECTION ACT CONSIDERING ITS 100 YEAR HISTORY OF CONFISCATION OF RANCH LAND.

PLEASE HELP US PROTECT OUR FARMLAND. STOP THE PARK SERVICE EXPANSION. HR1135 AND HR 1995

THIS IS NOT AN AGRICULTURAL BILL, ITS A PARK BILL IN DISGUISE

THANK YOU.
David H Lewis
DAVID H LEWIS
MALT RANCHER.

8 — Point Reyes Light, July 25, 1996

More Letters to the Editor

Opposes park expansion

To the Editor:

Regarding Wendi Kallins' July 18 column: Don't let them pull the Wooley over your eyes. The Farmland Protection Act is just the latest name for park expansion.

I'm already pressured by the Coastal Commission, the Williamson Act, Fish and Game, the US Department of Agriculture, Marin Agricultural Land Trust, and this county's Right to Farm ordinance, just to name a few.

David H. Lewis
Tomales

53

July 12, 1997

The Honorable Don Young
U.S. House of Representatives
Washington, D.C. 20515

Dear Honorable Young

As a landowner, I am writing in opposition to H.R. 1995. As you know, H.R. 1995, if passed will add an additional 38,000 acres of prime agricultural land to the Point Reyes National Sea Shore.

This bill will not preserve agriculture land and is being used to specifically expand the Point Reyes National Seashore Park and has no intention of preserving or protecting agriculture.

Through H.R. 1995 prime agriculture land is involuntarily being placed in the park boundary. In addition, it is crucial for you to know that a majority of the lands are already protected by the Williamson Act, or the Marin Agriculture Land Trust (MALT). This Bill is a waste of Taxpayers money and duplicates current laws of zoning in Sonoma and Marin Counties.

I urge you to oppose 1995.

Thank you for your consideration in this regard.

Sincerely,

Randy Mentesa
Box 1
Bodega, ca

July 15, 1997

54

Dear Sirs:

As a working ranch owner and resident of property designated to be within the boundary of H.R. 1995, titled POINT REYES FARMLAND PROTECTION ACT of 1997, I submit my request to be omitted from within the boundary of the act.

Members of my family are and have been for over one hundred thirty years, using this same land as a working ranch. We operate under the Williamson Act for active California agriculture.

Any residential or subdivision development is also controlled by the California Coastal Commission, since our property is located on the ocean side of Highway 1, which borders the Pacific Ocean.

Since we border the Estero Americano, we are also, already, under the jurisdiction of the NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION Gulf of the Farallones National Marine Sanctuary which monitors and protects the natural resources.

It seems redundant to have one more governmental agency in the form of H.R. 1995, for our tax dollars to support, to perform the same services already covered by the above agencies.

The parks are reported to be in dire straits; refer to the U.S. NEWS AND WORLD REPORT, July 21, 1997, Parks In Peril, pages 23 through 28.

It does not seem that this act will address the problem of possible development, but add to deficit spending in the parks.

Thankyou for your kind attention and a vote against H.R.1995!

Sincerely,

Sue Strong Marshall
17925 Highway 1, Bodega, Ca 94922

55

July 12,1997

Congressman Don Young
U.S. House of Representatives
Washington D.C. 20515

Dear Congressman Young,

I am a landowner who opposes the proposed Pt. Reyes National Seashore Farmland Protection Bill which would expand the National Park to include 38,000 acres of privately owned land, **including mine**. Making this land part of the Park boundary as the legislation states is **not voluntary and will not save farmland** (we must be profitable to farm). Many of the landowners will receive no compensation. The majority of landowners affected, who have protected the land, oppose their land becoming part of the Park. This land is not threatened, it is protected by the most restrictive zoning in the Nation with the California Coastal Commission, Gulf of Farlones Sanctuary, Marin and Sonoma County Planning departments, Marin Ag Land Trust, Williamson Act, all restricting use.

The proposed legislation adds another layer of government , potentially making viable agriculture unfeasible, as well as making it possible (and likely) for the government to take these productive lands for a Park. Please join me in opposing this land grab!

Sincerely Glenn Leroy Warfield

56

July 12,1997

Congressman Don Young
U.S. House of Representatives
Washington D.C. 20515

Dear Congressman Young,

I am a landowner who opposes the proposed Pt. Reyes National Seashore Farmland Protection Bill which would expand the National Park to include 38,000 acres of privately owned land, **including mine**. Making this land part of the Park boundary as the legislation states is **not voluntary** and **will not save farmland** (we must be profitable to farm). Many of the landowners will receive no compensation. The majority of landowners affected, who have protected the land, oppose their land becoming part of the Park. This land is not threatened, it is protected by the most restrictive zoning in the Nation with the California Coastal Commission, Gulf of Farlones Sanctuary, Marin and Sonoma County Planning departments, Marin Ag Land Trust, Williamson Act, all restricting use.

The proposed legislation adds another layer of government , potentially making viable agriculture unfeasible, as well as making it possible (and likely) for the government to take these productive lands for a Park. Please join me in opposing this land grab!

Sincerely,

Patricia Martinelli

57

MAY 8, 1997

I AM A LANDOWNER WHOSE LAND IS INCLUDED WITHIN THE BOUNDARIES OF REP LYNN WOOLSEYS PROPOSED BILL HR1135, THE PT REYES NATIONAL SEA SHORE FARMLAND PROTECTION ACT. I WAS NOT CONSULTED OR ASKED MY OPINION ON HAVING MY LAND PUT WITHIN PARK BOUNDARIES. MY FAMILY AND I DO NOT SUPPORT THIS BILL AS WE DO NOT WANT OUR LAND TO BE IN THE PARK.

RESPECTFULLY
John Mitchell

58

I, A LANDOWNER, OPPOSE THE EXPANSION OF THE PT. REYES NATIONAL SEASHORE PROTECTION ACT, BILL HR 1995, PROPOSED BY REPRESENTATIVES WOOLSEY, CAMPBELL, DOOLEY, GILCHREST, DINGELL, AND CONDIT. FOR THE FOLLOWING REASONS :

THE BILL WILL NOT PRESERVE AGRICULTURE
THE BILL IS NOT VOLUNTARY
THE BILL WILL NOT HAVE ENOUGH FUNDING
THE BILL DUPLICATES ESTABLISHED LAWS AND ZONINGS
THE BILL IS A WASTE OF TAXPAYER'S MONEY.

THIS BILL IS OPPOSED BY THE SONOMA COUNTY TAXPAYER'S ASSOCIATION, THE SONOMA COUNTY FARM BUREAU, THE MARIN COUNTY FARM BUREAU, THE NORTH BAY WOOL GROWERS, AND THE CALIFORNIA CATTLEMEN'S ASSOCIATION.
PLEASE DO NOT BE MISLED BY FALSE INFORMATION COMING FROM WOOLSEY'S OFFICE

I PROTECT THE ENVIRONMENT.
I PRESERVE AGRICULTURE.
I AM A TAXPAYER AND I OPPOSE THIS BILL.

Name	Address	# acres	parcel #
KIE BOON TRADING PTE LTD C/o Brenner Group	P O Box 2369, San Rafael, CA 94912 46 Convent Ct, San Rafael, CA 94901 U.S.A.	1254 AC.	100-040-04, 21, 22 & 23

By: _____
Y Miyake
Director

Date: July 10, 1997

From: Peter Moretti Tel. (405)744-5903 FAX (405)744-7673 59

Copy to George & Maria Herold FAX (805)969-5407

To: The Honorable Lynn Woolsey
FAX (202)225-5163

Re: H.R. 1995

Dear Representative Woolsey:

I have received your letter of June 24, explaining the Pt. Reyes Farmland and Protection Act of 1997. The letter is unresponsive to the concerns I previously expressed about H.R. 1135. As the co-owner of a ranch on Tomales Bay, I have the following objections:

-- If you know the area, the expansion of the Pt. Reyes National Seashore across Tomales Bay does not make any sense for serving the public.

-- We have found the State of California and the County helpful in preserving the agricultural use of the property, but do not find anything in the proposed Act which will help us; quite the opposite, it promises an unwelcome Federal intrusion.

-- We have polled our neighbors and members of the local farmers' and ranchers' groups, and find the overwhelming majority of them opposed to this Act.

Your constituents are opposed to this Act: please do not go forward with it!

Sincerely,

Peter Moretti

Pet M Moretti

60

Subj: H. R. 1995/H. R. 1135
Date: 97-07-08 15:45:29 EDT
From: Benawren
To: woolsey@hr.house.gov

Dear Ms. Woolsey:

Please do not support the Point Reyes National Seashore Farmland Protection Act of 1997.

We are co-owners of 720 acres of pastureland on the east-side of Tomales Bay, land affected by this bill. We have carefully studied the bill and its revisions.

We feel that this bill not only is not effective in protecting agriculture to any greater degree than it already is protected, but actually endangers it by the extension of the Point Reyes National Park boundary:

We, along with many of our neighbors who own property within the proposed boundary, have expressed our opposition to the bill repeatedly, and have been completely ignored so far. You have been quoted in the press and in interviews as saying that landowners are behind this bill. Not once to my knowledge have you mentioned us who are opposed. A poll of landowners in Marin County in the affected area yielded a count of (at this writing) 22 pro-bill landowners, 40 landowners against the bill and 37 that could not be reached or couldn't or wouldn't express themselves (like banks, etc.). Why have we who are against the bill been ignored or discounted?
We need to be heard too who have studied the bill and found it dangerous to us, not helpful. We hear that the Marin County Farm Bureau; the Sonoma County Farm Bureau; the California Farm Bureau Federation, of which we are members; and the Cattlemen's Association have taken a stand against the bill. As a matter of fact, of the landowners affected by it who are members of the Marin County Farm Bureau all but one are opposed to the bill. Why have we been ignored by you?

Please withdraw this proposal for unwanted federal intervention.

Thank your. Maria and George Herold

Maria F. Herold
George Herold

Muelrath Ranches
3800 Walker Avenue
Santa Rosa, CA 95407

Telephone: (707) 585-2195 Fax: (707) 584-1289

July 12, 1997

The Honorable Don Young
U.S. House of Representatives
Washington, D.C. 20515

Dear Honorable Young:

I am one of many landowners that is opposed to H.R. 1995. As you know, H.R. 1995, if passed will add an additional 38,000 acres of prime agricultural land to the Point Reyes National Sea Shore.

This bill will not preserve agriculture and is being used to specifically expand the Point Reyes National Seashore Park and has no intention of preserving or protecting agriculture.

It is in the landowners best interest to protect and preserve our lands. Placing prime Agricultural land in a national park is not the answer to preserve and protect.

Because most of the landowners are already in contracts with Williamson Act, or have sold their easements to the Marin Agriculture Land Trust. This Bill is a complete waste of Taxpayers money and duplicates established laws of zoning in Sonoma and Marin Counties.

I urge you to oppose 1995.

Thank you for your consideration in this regard.

Sincerely,

Robert Muelrath

62

July 12, 1997

The Honorable Don Young
U.S. House of Representatives
Washington, D.C. 20515

Dear Honorable Young:

I am writing in opposition to H.R. 1995. As you know, H.R. 1995, if passed will add an additional 38,000 acres of prime agricultural land to the Point Reyes National Sea Shore.

This bill will not preserve agriculture and is being used to specifically expand the Point Reyes National Seashore Park and has no intention of preserving or protecting agriculture.

More than 75% of the lands that are included in this bill are already protected by the Williamson Act, or by the Marin Agriculture Land Trust (MALT). This Bill is a waste of Taxpayers money and duplicates existing laws of zoning in Sonoma and Marin Counties.

I urge you to oppose 1995.

Thank you for your consideration in this regard.

Sincerely,

Mrs Alice Murdock

Muelrath Ranches
3800 Walker Avenue
Santa Rosa, CA 95407

Telephone: (707) 585-2195 Fax: (707) 584-1289

May 20, 1996

Congresswoman Lynn Woolsey
1050 Northgate Drive, Suite 140
San Rafael, CA 94903

Dear Congresswoman Woolsey,

After careful consideration of all the issues pertaining to the expansion of the Point Reyes National Park, my family and I have come to the conclusion that, at this time, our property in Bodega Bay be excluded from the proposed boundary of the Point Reyes National Seashore Farmland Protection Act.

I am aware of the debates of the many issues surrounding this proposed bill and feel the property owners in Sonoma County already have a mechanism in place to provide them with similar protection. Marin County could possibly promote a similar program and eliminate the need for federal legislation to preserve and protect local farms and open space.

I am also aware of the many hours of effort you and your staff have given to this project and would like to commend Grant Davis for being so patient with me as I was trying to make this decision.

Your prompt attention to this request will be greatly appreciated.

Sincerely, your constituent

Robert Muelrath II
Robert Muelrath

cc: Marin County Farm Bureau
Sonoma County Farm Bureau
So Co Ag Preservation and Open Space Dist.
Senator Barbara Boxer
Senator Diane Feinstein
Congressman Frank Riggs

The Honorable Lynn Woolsey, 6th District, California
439 Cannon Building
Washington, DC 20515-0506

July 1, 1997

Subject: Opposition to the Pt. Reyes Seashore Protection Act

Dear Representative Woolsey,

Representing myself and three owners of our two parcels of land totaling 360 acres (APN 106-220-20 & 22) now within the proposed 38,000 acre area that you want surrounded by a federal park boundary - please know we oppose your proposed legislation for the following reasons:

- **Would represent an economic loss to us of about $822,000:**

  With your act MALT would pay us about $1K per acre for our development rights, which is $360K. Then our land stripped of its development potential has a value only as grazing land and worth about $1K per acre or $360K. Therefore with MALT's payment and the land's grazing value its total economic value is $720K. Without your act we would have an opportunity to develop out the 6 building sites on 3 acres each, which utilizes only 5% of the land (18 acres is 5% of 360 acres). At a raw land value of at least $200K per site the value of six sites totals about $1.2M. Add to that the remaining 342 acres, the 95% of the land that has to remain in agricultural use at a value of about $1K per acre, which totals $342K, thus our property as it is currently zoned has a total economic value of $1.542M.

- **Does not contain sufficient funding.** At public meetings you said that only 400 total acres near Millerton Point are proposed for purchase and that our property is not included. Since the State of California recently bought land near Millerton Point for about $20,000 per acre it seems that about $8M of the $30M you need Congress to appropriate will be used to acquire land leaving only $22M to buy up conservation easements.

- **Your legislation by taking away our private property rights is a promotional scheme that makes the land owner dependent on the Marin Agricultural Land Trust (MALT).** The language in your proposed bill does not allow our development rights to be built out on 5% of the land, which hardly threatens agricultural operations in the area, nor will it will allow transferring them to other suitable sites.

Because of the above reasons and more we along with many other land owners, and the Marin County Farm Bureau do not support your legislation.

Sincerely,

Morgan Noble

79 West Shore Road
Belvedere, CA 94920

1/10/'65

I AM OPPOSED OF THE FARMLAND PROTECTION ACT. THE BILL H.R. 1995 IS BAD FOR AGRICULURE IN OUR AREA. IT WILL NOT PRRESERVE AG. IN ANY CASE.

Eugene Ferreira

66

July 12,1997

Congresswoman Woolsey
U.S. House of Representatives
439 Cannon Building
Washington D.C. 20515

Dear Congresswoman Woolsey,

I am a landowner who opposes your proposed Pt. Reyes National Seashore Farmland Protection Bill which would expand the National Park to include 38,000 acres of privately owned land. Making this land part of the Park boundary as the legislation states is **not voluntary** and **will not save farmland** (we must be profitable to farm). Many of the landowners will receive no compensation. The majority of landowners affected, who have protected the land, oppose their land becoming part of the Park. This land is not threatened because:

- The land has some of the most restrictive zoning in the Nation including California Coastal Commission, Gulf of Farlones Sanctuary, Marin and Sonoma Planning Departments, Williamson Act, and Marin Ag Land Trust, all with many limitations on this land.
- 11,000+ acres are permanently protected from development and committed to ag through a local land trust.
- There have been less than 5 building permits issued for new homes in over 10 years on the 38,000 acres.

The proposed legislation adds another layer of government , potentially making viable agriculture unfeasible, as well as making it possible (and likely) for the government to take these productive lands for a Park.

History shows, privately owned lands are the best way to keep this area pristine. How about legislation which would reward the good stewardship of these landowners (which the public now enjoys) on an incentive and completely voluntary basis!

Sincerely,

Edward D. Pozzi

67

July 12,1997

Congressman Don Young
U.S. House of Representatives
Washington D.C. 20515

Dear Congressman Young,

I am a landowner who opposes the proposed Pt. Reyes National Seashore Farmland Protection Bill which would expand the National Park to include 38,000 acres of privately owned land, **including mine**. Making this land part of the Park boundary as the legislation states is **not voluntary** and **will not save farmland** (we must be profitable to farm). Many of the landowners will receive no compensation. The majority of landowners affected, who have protected the land, oppose their land becoming part of the Park. This land is not threatened, it is protected by the most restrictive zoning in the Nation with the California Coastal Commission, Gulf of Farlones Sanctuary, Marin and Sonoma County Planning departments, Marin Ag Land Trust, Williamson Act, all restricting use.

The proposed legislation adds another layer of government , potentially making viable agriculture unfeasible, as well as making it possible (and likely) for the government to take these productive lands for a Park. Please join me in opposing this land grab!

Sincerely,

Richard Respini
8000 Marshall Petaluma Rd.
Marshall, Ca.
94940

68

. 12, 199?

The Honorable Don Young
U.S. House of Representatives
Washington, D.C. 20515

Dear Honorable Young:

I am writing in opposition to H.R. 1995, Woolsey. H.R. 1995, if passed will add an additional 38,000 acres of prime agricultural land to the Point Reyes National Sea Shore.

This bill will not preserve agriculture and is being used to specifically expand the Point Reyes National Seashore Park and has no intention of preserving agriculture.

More than 75% of the lands that are include in this bill are already protected my the Willia,son Act ot by the Marin Agriculture Land Trust. This Bill is a complete waste of Taxpayers money and duplicates established laws of Zoning in Sonoma and Marin Counties.

I urge you to oppose 1995.

Thank you for your consideration in this regard.

Sincerely,

Denny Tibbetts

Denny Tibbetts
Estero Lane Property Owner

VARLOW ENTERPRISES

AN INVESTMENT, MANAGEMENT AND DEVELOPMENT CO

69

July 16, 1997

I am a landowner and I strongly oppose the expansion of the Pt. Reyes National Seashore Protection Act, Bill HR1995 proposed by Representatives Woolsey, Campbell, and others, because this bill is nothing but a duplication of established county zonings.

If Woolsey's bill was designed to preserve agriculture, why then are the Marin County Farm Bureau, the Sonoma County Farm Bureau, the North Bay Wool Growers, and the California Cattleman's Association against it? Please do not be misled by information coming from Woolsey's office.

We landowners in West Marin protect our environment. We preserve agriculture. We don't need to be buried under an additional bill and see our land values depressed to zero.

Sincerely,

Andrew Varlow

90 BEACH DRIVE • SAN RAFAEL, CALIFORNIA 94901 • 415.485.0234 • FAX 415.485.0882

70

I AM WRITING IN OPPOSITION TO MS. WOOLSEY'S BILL HR 1995 " POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT. I OWN FARMLAND WITHIN THIS PROPOSED PROTECTION AREA. WHEN THESE SAME AGRICULTURAL LANDS ARE ALREADY PROTECTED BY RULES AND REGULATIONS RESTRICTING RANCHERS TO RESPONSIBLE AGRICULTURAL AND ENVIRONMENTAL PRACTICES WITH NO CHANCE FOR DEVELOPMENT, WHY IS MS. WOOLSEY DUPLICATING LEGISLATURE AND ASKING TAXPAYERS TO SPEND $30,000,000.00 TO $80,000,000.00 TO FIX SOMETHING THAT DOES NOT NEED FIXING ? THIS IS A WASTE OF OUR TAX DOLLARS. I PROTECT THE ENVIRONMENT. I PRESERVE AGRICULTURE. I AM A TAXPAYER AND I OPPOSE THIS BILL. THIS BILL ALSO TAKES AWAY NEEDED TAX REVENUE THAT SUPPORTS THIS COMMUNITY WHICH HAS NOT BEEN ADDRESSED.

PLEASE RESISTER MY VOTE AGAINST THIS BILL.
THANK YOU,
Willard H. Jones

71

Martin Pozzi
P.O. Box 246
Valley Ford, California 94972
707-766-9028

Marin County Farm Bureau
Board of Directors
P.O. Box 219
Point Reyes Station, California 94956

January 25, 1996

Dear Board Members,

I am writing to request that you oppose the Proposed Point Reyes National Seashore Farmland Protection Bill authored by Congresswoman Woolsey. I am a landowner and my property will be included in the Point Reyes National Seashore by this legislation. I have contacted many other landowners in the boundary and they are indicating by signature that they also do not wish their property to be included in the Point Reyes National Seashore. We hope you will represent us appropriately and oppose this bill.

Sincerely,

John V. Mitchell
Jerry Zimmerman
Robert Mendoza
Cynthia D. Christopher
Geronima D. Pelon

72

Martin Pozzi
P.O. Box 246
Valley Ford, California 94972
707-766-9028

Marin County Farm Bureau
Board of Directors
P.O. Box 219
Point Reyes Station, California 94956

January 25, 1996

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Sincerely,

Martin Pozzi
P.O. Box 246
Valley Ford, California 94972
707-766-9028

Marin County Farm Bureau
Board of Directors
P.O. Box 219
Point Reyes Station, California 94956

January 25, 1996

Dear Board Members,

I am writing to request that you oppose the Proposed Point Reyes National Seashore Farmland Protection Bill authored by Congresswoman Woolsey. I am a landowner and my property will be included in the Point Reyes National Seashore by this legislation. I have contacted many other landowners in the boundary and they are indicating by signature that they also do not wish their property to be included in the Point Reyes National Seashore. We hope you will represent us appropriately and oppose this bill.

Sincerely,

Martin Pozzi

74

I am a landowner who owns property in Sonoma County that lies within the boundry of the Point Reyes Seashore Farmland Protection Act. I am against this bill for the following reasons.

***The bill will not preserve agriculture.**
***The bill is not voluntary.**
***The bill duplicates established laws and zoning.**
***The public does not want more money spent on expanding parks.**
***The government does not have adequet funding to maintain and operate existing park land today.**

You may be lead to believe that the landowners with-in this proposed park boundry are in favor of this bill. This is far from the truth. The majority of land owners do not want any part of this bill.

Oliver Ellis Valley Ford 94972
Sandra Borlesa Valley Ford. CA 94972
Doug Borlesa, 14055 VALLEY FORD-ESTERO RD., VALLEY FO
Helen Brandi, 15,400- High. I, Valley Ford. Calif. 94972
Robert Muelrath 3500 walker Ave Santa Rosa, Ca.
Phyllis J Hagemann 1215 Hagemann Lane Penngrove
Mrs Rose Muelrath 3760 Woodcrest Dr. Santa Rosa Calif 95402

August 7, 1995

Honorable Richard W. Pombo
Member of Congress
Eleventh District, California
1519 Longworth Building
Washington, D.C. 20515

Subject: Point Reyes National Seashore, Marin County, CA
PROPOSAL TO EXPAND PARK BOUNDARIES

Dear Congressman Pombo:

The enclosed June 12, 1995 article from the Gannett News Service reports that Rep. Lynn Woolsey and Sen. Barbara Boxer will soon introduce new versions of their previous legislation to expand the boundaries of the Point Reyes National Seashore as soon as the National Park Service has completed a boundary study....probably sometime this summer. Woolsey is quoted as saying, "We know they (the Republicans) won't go for spending money, so this bill calls only for setting the park boundaries." Interior Secretary Bruce Babbitt has written to Woolsey and Boxer to express his support for the plan to expand the Point Reyes boundaries.

Karen Urquhart, executive director of the Marin Conservation League said that expanding the park boundaries would give Marin County additional leverage to restrict development from the area "even if the land remains in private hands"!

The article further reports that the purchase of land and development rights would be left to the Marin Agricultural Land Trust (MALT), which is now almost out of funds. MALT has very slim prospects for new funding since the California voters defeated the 1994 CALPAW Bond Act (Prop. 180) last November.

Mike Hardiman of your staff refreshingly stated, "There are two tests this (proposal) is going to have to pass: It can't spend money, and it can't restrict private property rights."

When the federal government passes legislation to establish boundaries for a park, wildlife refuge or preserve of any kind, it gives a loud and resounding signal to everyone that it clearly intends to purchase the lands within those designated boundaries .....although no money is appropriated for acquisition.

76

The boundary legislation as proposed will cast a "cloud" over all the properties inside that boundary. Property ownership inside the boundary would be paralyzed since the ability to use or transfer land would be seriously hindered by the federal presence. Who logically would spend the time, effort and money to purchase and improve property if it ultimately will be taken by the federal government? The answer is: no one! Therefore, this proposed boundary legislation would <u>definitely</u> restrict private property rights ! ! !

We strongly <u>oppose</u> this soon to be proposed unfunded Point Reyes National Seashore boundary expansion bill, and urge you and the Sub-committee on National Parks, Forests and Lands to also oppose the concept. It is merely an attempt to condemn properties within that boundary without fair compensation.

<u>UNDER OUR CONSTITUTION, THAT IS WRONG</u> ! ! !

For additional information on this issue contact Web Otis, Box 713, Stinson Beach, CA 94970 (415) 868-2346.

Judith M Bolli	P.O. Box 340 Pt. Reyes, Sta 94956	415-663-8233
[illegible]	PO Box 94 Tomales CA 94971	707 878-2514
Helen Skinner	P.O. Box 461 Pt. Reyes Sta 94956	415- 663-1708
Box A Spargo	P.O. Box 340 Pt. Reyes Sta CA 94956	415- 663-8333
Web Otis	P.O. Box 713 STINSON BEACH, CA 94970	415 868-2346
Mabel A. Hawley	P.O. Box 340 Pt. Reyes Sta. CA 94956	415-663-8222
Cecil Zimmerman	Box 327 Inverness 94937	415 669-1453
Marilyn R. Zimmerman	22788 Clark Rd Marshall	415663-1:
Bill Zimmerman	22799 State Route 1 Marshall	415663-
Mary E. Zimmerman	22788 Clarke Rd Marshall	(415) 663-1217 CA

77

The boundary legislation as proposed will cast a "cloud" over all the properties inside that boundary. Property ownership inside the boundary would be paralyzed since the ability to use or transfer land would be seriously hindered by the federal presence. Who logically would spend the time, effort and money to purchase and improve property if it ultimately will be taken by the federal government? The answer is: no one! Therefore, this proposed boundary legislation would **definitely** restrict private property rights ! ! !

We strongly **oppose** this soon to be proposed unfunded Point Reyes National Seashore boundary expansion bill, and urge you and the Subcommittee on National Parks, Forests and Lands to also oppose the concept. It is merely an attempt to condemn properties within that boundary without fair compensation.

UNDER OUR CONSTITUTION, THAT IS WRONG ! ! !

For additional information on this issue contact Web Otis, Box 713, Stinson Beach, CA 94970 (415) 868-2346.

[illegible] Valley Ford Ca. 876-3220
[illegible] Valley Ford CA. 876-3454
[illegible] Furlong 12805 Valley Ford Rd Petaluma Ca 876-3476
Leo [illegible] Star Route Valley Ford 7954702
Robert [illegible] 1505 Hwy 1 Valley Ford 876-3113
Bill McCall 2575 Whitaker Bluff Rd. 876-2242
[illegible] Furlong PO Box 496 Valley Ford 876-3502
Kathleen [illegible] 50 [illegible] Dr. San Rafael Ca.
[illegible] 38 Austin Ave San Anselmo, 457-2083
Virginia [illegible] 50 Laurel Ave. Stinson Beach 868-2346

78

The boundary legislation as proposed will cast a "cloud" over all the properties inside that boundary. Property ownership inside the boundary would be paralyzed since the ability to use or transfer land would be seriously hindered by the federal presence. Who logically would spend the time, effort and money to purchase and improve property if it ultimately will be taken by the federal government? The answer is: no one! Therefore, this proposed boundary legislation would **definitely** restrict private property rights ! ! !

We strongly **oppose** this soon to be proposed unfunded Point Reyes National Seashore boundary expansion bill, and urge you and the Sub-committee on National Parks, Forests and Lands to also oppose the concept. It is merely an attempt to condemn properties within that boundary without fair compensation.

UNDER OUR CONSTITUTION, THAT IS WRONG ! ! !

For additional information on this issue contact Web Otis, Box 713, Stinson Beach, CA 94970 (415) 868-2346.

Joseph L. McAfee 7/26/95
P.O. Box 552
Inverness, Calif. 94937

Robert Glenn, P.O. Box 803, Pt Reyes Sta 7/27/95

Bruce S Chapman P.O Box 544, Pt Reyes Sta 8/31/95

Ida Chaparro P.O. Box 413 Tomales, Ca 94971 8/2/95

Xavier Chaparro P.O. Box 210 Tomales Ca 94971 8/3/95

Martin Melin P.O. Box 669 Pt. Reyes Sta, Ca. 94956 8/2/

Larry McDonald P.O. Box 350 Pt Reyes Sta 94956 8/2/

Rhonda McDonald Pt. Box 350 Pt Reyes Sta Ca 94956 8/2/95

Terri Calame P.O. Box 699 Pt Reyes Sta, Ca 94956 8/2/95

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UNDER OUR CONSTITUTION, THAT IS WRONG ! ! !

For additional information on this issue contact Web Otis, Box 713, Stinson Beach, CA 94970 (415) 868-2346.

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Donna L Furlong 12805 Valley Ford Rd. Petaluma Ca. 94
(415) 495-0334
(A. VARLOW) 50 BEACH DR. SAN RAFAEL CA.
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Po Box 997 Stinson Beach, CA
21 Meadowcrest
Jane Calbreath Novato, CA 94947 892-8938
Peter W. Otis 2741 TOPAZ, NOVATO, CA 415-897-6201
94970

80

The boundary legislation as proposed will cast a "cloud" over all the properties inside that boundary. Property ownership inside the boundary would be paralyzed since the ability to use or transfer land would be seriously hindered by the federal presence. Who logically would spend the time, effort and money to purchase and improve property if it ultimately will be taken by the federal government? The answer is: no one! **Therefore, this proposed boundary legislation would definitely restrict private property rights ! ! !**

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UNDER OUR CONSTITUTION, THAT IS WRONG ! ! !

For additional information on this issue contact Web Otis, Box 713, Stinson Beach, CA 94970 (415) 868-2346.

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Kathleen Crayne 130 Johnson St Tomales Ca 707 878-260
L & G Burbank 28200 Tomales 707-762-79
Lori Taylor 200 Cenini Rd Tomales Ca 707-878-257
Rose Lastoz TOMALES CA.
Bert Crayne 130 Johnson Tomales Ca
65 MESA RD POINT REYES STA.
James H. Moreda 13900 Hwy 1, Valley Ford Ca.
Lizette Ballatore 14,000 HWY ONE, Valley Ford, Ca.
Celia Manibusan 8 Oak Dr. San Rafael Ca.

81

LETTER: Honorable Richard W. Pombo

Subject: Point Reyes National Seashore, Marin County, CA
PROPOSAL TO EXPAND PARK BOUNDARIES

Jerri Thornton P.O. Box 270 Pt Reyes Sta, CA 94956 8/3/95

Laura Bradley P.O. BOX 66 P.R.S. CA 94956 8/3/95

Laurence D. Porter Box 541 Point Reyes Sta 94956

George M. Gallagher P.O. Box 16 Pt Reyes Sta C 94956 8/3/95

Chris Giacomini Box 393 Pt Reyes Sta Ca 94956 8/3/95

[illegible] Box 1241 Point Reyes Sta. CA 94956 8/3/95

[illegible] 6701 Red Hill Rd. Ranch Petaluma CA 94956 8/3/95

[illegible] 154 [illegible] San Francisco CA 94956 Box 699 Pt Reyes Sta, Calif 94956 8/3/9

Roberta Williamson Roberta Williamson Ranch P.O. Box 61 Tomales CA 94971 8/3/95

Ken Spaletta + Box 340 Pt Reyes Sta CA 94956 P.O. Box 601 Healdsburg Ca 95448 8/3/95

[illegible] Spaletta or Box 340 - Pt Reyes Sta. Ca. 94956 Box 601 Healdsburg Ca. 95448 8/3/95

Donna McIsaac Ranch 1316 San Rafael Dr. Petaluma, CA. 94954 8/3/95

Henry Jensen P.O. Box 72 - Tomales, CA 94971 8/3/95

Lucille Jensen P.O. Box 469 Pt Reyes Sta Calif 94956 8/3/95

Janice Martinson P.O. Box 505 Pt Reyes Sta. 94956

Richard Howell P.O. B. 227 PENNGROVE, CA. 94951

82

WEST MARIN COUNTY, CA.

— RANCHERS & LAND OWNERS —

OPPOSED TO PROPOSED SEASHORE EXPANSION!

AUG. 7, 1995

NAME	WEST MARIN LOCATION	LAND USE	APRX. ACRES LEASED	APRX. ACRE OWNED
BALLATORE	VALLEY FORD	SHEEP, CATTLE		1000
BIANCHI	VALLEY FORD	DAIRY		1300
BORELLO	POINT REYES	CATTLE		860
BURBANK	TOMALES	SHEEP		300
CHOPERENA	TOMALES	SHEEP, CATTLE	6200	
CRAYNE	TOMALES	DAIRY	850	300
FURLONG	MARSHALL	CATTLE	2500	600
IELMORINI	VALLEY FORD	DAIRY		1500
ILLIA	VALLEY FORD	DAIRY		300
MC CALL	TOMALES	DAIRY		1000
MC DONALD	POINT REYES	GRAZING		15
MC ISAAC	TOMALES	DAIRY		800
NOREDA	VALLEY FORD	DAIRY		300
OTIS	POINT REYES	FALLOW		138
PARKS	TOMALES	SHEEP, CATTLE		500
SATORI	TOMALES	DAIRY		800
SPALLETTA	TOMALES	DAIRY		900
TITUS	VALLEY FORD	DAIRY		300
VARLOW	POINT REYES	FALLOW		91
WHANSIEDLER	POINT REYES	FALLOW		76
WILLIAMSON	TOMALES	SHEEP		900
ZIMMERMAN	MARSHALL	DAIRY		700

AMERICAN FARM BUREAU FEDERATION
225 TOUHY AVENUE • PARK RIDGE • ILLINOIS • 60068 • (847) 685-8600 • FAX (847) 696-8966
600 MARYLAND AVENUE S.W. • SUITE 800 • WASHINGTON, D.C. • 20024 • (202) 484-3600 • FAX (202) 484-3604
Internet: http://www.fb.com/

August 6, 1997

The Honorable Don Young, Chairman
House Resources Committee
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The American Farm Bureau Federation continues to oppose legislation by Congresswoman Lynn Woolsey to expand the Point Reyes National Seashore. This legislation has been introduced in the 105th Congress as H.R.1135 and H.R.1995. Similar legislation was proposed by Rep. Woolsey during the 104th Congress and was strongly opposed by the Marin and Sonoma County Farm Bureaus, the California Farm Bureau Federation and AFBF because of its potential impacts on private landowners.

Our concerns remain. Despite Congresswoman Woolsey's claims that our concerns have been met, her new legislation still authorizes the Secretary of Interior to acquire private lands for park expansion and rights of way. The bills would impose management restrictions on private lands within and adjacent to the park and disrupt normal farming and ranching operations.

Congresswoman Woolsey indicates that the purpose of the legislation is farmland preservation. The stated objective of farmland preservation might be better served through voluntary, incentive-based approaches such as those established by the 1996 Farm Bill.

H.R.1135 and H.R.1995 are not acceptable to farmers and landowners in the Point Reyes area. This legislation would condemn private agricultural land for park purposes. It would impose management restrictions on farmland and disrupt agricultural operations within and outside the park. Its value in preserving farmland is at best, questionable. For these reasons, AFBF joins the Marin and Sonoma County Farm Bureaus and the California Farm Bureau in opposing both bills. We urge you and members of your (sub)committee to oppose H.R.1135 and H.R.1995.

Sincerely,

Dean Kleckner

Dean R. Kleckner

cc: Bob Vice, President, CAFB
Gordon Thornton, President, Marin County FB
Richard Mounts, President, Sonoma County FB

bcc:
Jack King\Bruce Blodgett, CAFB
Jon Doggett
Bob Wilson
f:/stm/pt-reyes.806

California Farm Bureau Federation
1601 Exposition Boulevard • Sacramento, CA 95815 • (916) 924-4000 • Fax # (916) 923-5318

July 25, 1997

The Honorable Lynn Woolsey
U.S. House of Representatives
Washington, D.C. 20515

Dear Ms. Woolsey:

We write to oppose your Point Reyes park expansion bill, H.R. 1995.

Instead of addressing landowner concerns, your new bill compounds the problems we had with H.R. 1135. For example, the purposes section on page two eliminates all reference to preserving long-term agriculture and aquaculture in Marin and Sonoma Counties. By de-emphasizing agriculture in the bill, it is clear that this legislation is geared toward park expansion, not the protection of viable agriculture.

On page five you remove reference to ensuring that lands acquired under your park bill will remain in agricultural production. Again, it's clear your goal is parkland expansion.

Finally, by making the changes you have proposed in H.R. 1995, you eliminate oversight by the House Agriculture Committee. Any significant legislation with the stated goal of farmland preservation, through the use of conservation easements, would have to be referred to the Agriculture Committee. We are deeply disappointed with the latest version and feel that you are ignoring the concerns of landowners and Farm Bureau.

We would be happy to work with you in the future when the topic is the protection of farmland, but as long as your intent is a park expansion bill, we must oppose your legislation.

Sincerely,

Bob L. Vice

BOB L. VICE
President

cc: Marin County Farm Bureau
Sonoma County Farm Bureau

85
California Farm Bureau Federation
1601 Exposition Boulevard • Sacramento, CA 95815 • (916) 924-4000 • Fax # (916) 923-5318

This letter was also addressed to Gary Condit and CalDooley.

July 2, 1997

The Honorable Tom Campbell
U.S. House of Representatives
Washington, D.C. 20515

Dear Tom:

Congresswoman Lynn Woolsey has re-introduced her Point Reyes park expansion bill. It is now identified as H.R. 1995. Earlier this session we sent you a letter expressing our concerns with the previous legislation H.R. 1135. The two bills are nearly identical.

We are concerned that you have signed on as a cosponsor without knowing the sentiments of local farmers and ranchers in Marin and Sonoma Counties. This bill by any number will put farmers and ranchers out of business.

Ms. Woolsey has said there is local agriculture support for her bill. Instead, there is overwhelming opposition. She also stated the intent of the legislation was to preserve agricultural lands.

While we support the protection of agricultural lands and support the use of conservation easements, H.R. 1995 is a park expansion bill. This legislation will allow the Secretary of Interior to condemn farm properties in order to expand the park or establish trails and other recreational facilities. This is unacceptable.

It is clear that Lynn Woolsey's goal is park expansion. Accordingly, we urge you to oppose the Point Reyes legislation.

Sincerely,

BOB L. VICE
President

Post-it® Fax Note 7671	Date 7/14	# of pages ▶
To Sally Kozi	From Jean
Co./Dept.	Co. CFBF
Phone #	Phone # 924-4050
Fax # 707-766-9028	Fax #

California Farm Bureau Federation
1601 Exposition Boulevard • Sacramento, CA 95815 • (916) 924-4000 • Fax # (916) 923-5318

April 16, 1997

The Honorable Lynn Woolsey
U.S. House of Representatives
Washington, D.C. 20515

Dear Ms. Woolsey:

The California Farm Bureau Federation opposes (now 1995) H.R. ~~1135~~, your bill to expand the Point Reyes National Seashore.

While we appreciate your attempts to change this bill, the underlying issue remains. This bill, despite its title is a parkland expansion bill. As long as this bill, or any other measure introduced for the area includes the expansion of the park onto productive farm and ranch properties, Farm Bureau will oppose this measure.

When originally discussed, we were hopeful that you would introduce a bill to assist in the funding of conservation easements. We are disappointed that you have chosen instead to expand the park by utilizing private farmlands, thus saddling these landowners with a new landlord, and endless restrictions.

While the language of H.R. 1135 states that the purpose of this bill is to preserve productive long-term agriculture and aquaculture in Marin and Sonoma Counties, it misses its mark. You do not preserve farm and ranch land by making it part of the park system.

While we are willing to work with you on any bill that will preserve farmland, we cannot support your park bill. We urge you to forgo H.R. 1135 in favor of a bill that focuses entirely on conservation easements.

Sincerely,

Bob L. Vice

BOB L. VICE
President

BLV:bb
bc: CA House Agriculture Committee Members
CA House Resources Committee Members
Marin and Sonoma County Farm Bureaus

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86A

July 15, 1997

Congresswoman Lynn Woolsey
U.S. House of Representatives
Canon House Office Building, Room 439
Washington, D.C. 20515

Dear Congresswoman Woolsey:

We are writing to express **absolute opposition** to your HR 1995, the Point Reyes National Seashore Farmland Protection Act of 1997.

The Sonoma-Marin Cattlemen's Assn. and the local farm bureau are extremely disturbed over continuing statements made to the press and other members of Congress indicating that ranchers and farmers are very supportive of HR 1995. Quite to the contrary, the local cattlemen's association, local farm bureau and California Farm Bureau Federation have all indicated they are adamantly opposed to having the park boundary expanded to include their agricultural operations.

Landowners who are subject to a conservation easement under HR 1995 will not be able to continue to manage their property for viable agricultural production when they will become included within a park boundary where public agencies or nonprofit organizations will manage and monitor the land acquired to advance park objectives, not agricultural productivity. Condemnation of ranch and farm property for public trails, wildlife viewing areas, recreational areas, and other park use, and the inability to protect livestock and other property from predators or to conduct controlled burns to improve forage and wildlife habitat and to minimize wildfires are just a few of the many factors that will stifle a ranching or farming operation. By signing a contract for inclusion in the park boundary, ranchers and farmers will become the victims of undue land use restrictions that can drive them out of business.

The disruption to and potential for elimination of agricultural productivity in the Pt. Reyes area as the result of HR 1995 would be a great blow to the generations of ranchers and farmers who wish to pass their agricultural operations onto their children and grandchildren. For these reasons, we respectfully request that you not pursue HR 1995.

Sincerely,

Sheila L. Massey

Sheila L. Massey, Sr. Director
Government Affairs

96

CALIFORNIA WOOL GROWERS ASSOCIATION

September 24, 1997

Honorable Lynn Woolsey
U.S. House of Representatives
Washington, D.C. 20515-0506

Dear Congresswoman Woolsey:

The California Wool Growers Association opposes H.R. 1135 and H.R. 1995 which would expand the Point Reyes National Seashore.

Both of the respective bills are misleading in title and summary. While the author claims to be giving the Secretary of Agriculture the authority and appropriations for farmland "conservation easements" it is clear that this is a nothing more than a park expansion bill. And while the author insists that the bill is intended to preserve farmland, it does nothing more than create public access to what is now private farmland at the expense of taxpayers, local farmers and ranchers

These bills have become so controversial that it was the subject of discussion at the California Wool Growers Annual Convention. Our statewide membership shared their concern that these bills could set a dangerous president for future park proposals and further erode already battered private property rights. The following resolution was unanimously adopted by the CWGA membership.

WHEREAS, the Point Reyes National Seashore Farmland Protection Act will duplicate existing zoning and the Williamson Act, and;

WHEREAS, 38,000 acres of privately owned farmland will be used to increase the existing Point Reyes National Seashore Park boundary, and;

WHEREAS, the majority of effected landowners are in opposition to the expansion of the Point Reyes National Seashore Park,

THEREFORE, BE IT RESOLVED, that the California Wool Growers Association opposes the Point Reyes National Seashore Farmland Protection Act.

Unifying the Voice of the California Sheep Industry Since 1860
1225 H Street, Suite 101 • Sacramento, California 95814-1910
(916) 444-8122
FAX: (916) 443-0601

86C

Honorable Lynn Woolsey
September 24, 1997
Page two of two

Although we share your desire to protect farmland and open space, we cannot accept the conversion of farmland to public access parks.

Sincerely,

Jay B. Wilson
Executive Vice President

cc: CA. members of the House Agriculture Committee
CA. members of the House Committee on Resources

California Farm Bureau Federation
1601 Exposition Boulevard • Sacramento, CA 95815 • Telephone (916 [illegible]

June 4, 1996

The Honorable Lynn Woolsey
U.S. House of Representatives
Washington, D.C. 20515

Dear Ms. Woolsey:

We have reviewed the March 30, 1996 draft of your legislation to expand the Point Reyes National Seashore. Based on our policy, the California Farm Bureau Federation will oppose this bill if introduced in Congress.

This bill will allow the federal government to acquire lands and interests in land, with or without the consent of the owner, in an effort to expand the park's boundaries. We cannot support such changes since we do not support greater public ownership of private property in California. Already over half of our state is owned by the government. Existing public land provide ample opportunity for the public to enjoy the diverse California landscape.

When this bill was first discussed, it was presented as an effort to preserve farmland in Marin and Sonoma Counties. We believe requiring private lands to become part of the park system in exchange for conservation easements is not appropriate.

We believe that there are other alternatives that would prove much more effective in meeting the goals you have stated in the proposed bill. For example, the current budget negotiations would give you the opportunity to work with both the Sonoma and Marin County Farm Bureaus in an effort to access funds made available through the Farm Bill. The Farm Bill allocated $35 million for the purchase of conservation easements. While we acknowledge that not all of the money can come to Marin County, through your help and by working with agriculture, your goal of protecting farmland can be reached without special legislation and without expanding the park's holdings.

Attached, you will find a detailed analysis outlining some of our concerns with this proposed legislation.

Sincerely,

BOB L. VICE
President

BLV:bb
cc: Marin and Sonoma County Farm Bureaus

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Sonoma County Farm Bureau
Affiliated with the California Farm Bureau Federation and the American Farm Bureau Federation

June 3, 1996

The Honorable Lynn Woolsey
House of Representatives
439 Cannon HOB
Washington, D.C. 20515

Dear Ms. Woolsey:

The Sonoma County Farm Bureau has taken the position to not support your legislation as written in regards to the expansion of the Point Reyes National Seashore.

We continue to have concerns regarding eminent domain, the creation of a zone, lack of adequate funding, and increased regulations by the park service throughout the expansion of the park.

We can not support the eminent domain language used in this bill. The bill currently states "the Secretary may not exercise the right of eminent domain to acquire lands in active ranching or agricultural production which are not threatened by immanent conversion to developed uses unless requested by the landowner."

The phase "which are not threatened by immanent conversion to developed uses" is one source of our concern and we will not support this bill with this language. Developed uses according to government agencies could include the construction of a barn, the planting of orchards or vineyards, or the construction of a home for the landowner. In addition, this is one section of the bill that is inconsistent with Farm Bureau policy regarding the expansion of public lands.

The other concern relates to the language "in active ranching or agricultural production." This phase is far too vague and can be interpreted to mean that if fields are left fallow for even a short period of time, that these lands are no longer in active production so the easement can be placed or the land acquired by the Secretary. How long can lands be fallow before they would be considered no longer active ranching or agricultural productive?

The creation of a park boundary zone is not necessary if this is truly a volunteer program. The zone is perceived by landowners as a negative restriction which would impact property values.

The $15 million funding is not sufficient. Many landowners will be in a park designation without compensation for many years.

We feel your proposed legislation is not needed. If you want to protect farmland, a means to do so is already in place. Under the 1996 Farm Bill, HR 2554, a farmland protection program was introduced.

This program would allow the US Department of Agriculture to purchase easements to protect farmland and to prevent its conversion to developed or other non-agricultural uses. $35 million was authorized in this bill with the hopes of signing up 170,000 to 340,000 acres in a combination of permanent and temporary easements. This is a better approach than your bill since (1) it does not extend public land ownership in California or federal agency boundaries; (2) the federal agency responsible for the program is the USDA not the Department of Interior; and (3) money has already been allocated to this program.

It is our feeling that a park does not have to be established in order to protect farmland. If the true intent of the legislation is to protect farmland, then the approach used in the Farm Bill is appropriate. Farmers need more business flexibility, not more regulations, to ensure economic viability for their operations. This will help protect farmland by keeping it in production agriculture.

Thank you for considering the concerns of the Sonoma County Farm Bureau.

Sincerely,

John Bucher
President

cc: Congressman Frank Riggs
Senator Barbara Boxer
Senator Dianne Feinstein
Marin County Farm Bureau

MAY 2 8 1997

SONOMA COUNTY FARM BUREAU

Affiliated with the California Farm Bureau Federation and the American Farm Bureau Federation

May 20, 1997

The Honorable Don Young
House of Representatives
Washington, D.C. 20515

Dear Mr. Young:

The Sonoma County Farm Bureau has taken the position to oppose the Point Reyes Farmland Protection Act authored by Congresswoman Lynn Woolsey. We hope that the Resource Committee will reject this legislation.

We continue to have concerns regarding eminent domain, the creation of a zone, lack of adequate funding, and increased regulations by the park service throughout the expansion of the park.

The creation of a park boundary zone is not necessary if this is truly a volunteer program. The zone is perceived by landowners as a negative restriction which would impact property values.

The $30 million funding is not sufficient. Only $15 million will be made available up front. This will only buy a few ranches. The other $15 million can only be acquired through matching funds by local agencies. Many of these agencies don't have any funds. Many landowners will be in a park designation without compensation for many years.

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970 Piner Road • Santa Rosa, CA 95403 • Phone (707) 544-5575 • Fax (707) 544-7452

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Thank you for considering the concerns of the Sonoma County Farm Bureau.

Sincerely,

Rick Mounts

Richard Mounts
President

cc: ✓ Marin County Farm Bureau
California Farm Bureau Federation

Marin County Farm Bureau

Martin Pozzi
President

A huge thank you to Mrs. McEvoy and the Jim Grossi Family for sharing their agricultural operations with the participants of Family Farm Day 1996. We received red carpet treatment at the lunch site, where Mrs. McEvoy had the roads swept clean, the chairs and tables set up, everything first class! What a treat. Thank you to all the workers on the board of directors who helped prepare lunch: Roxsane and Gordon Thornton, Jerry Corda, Phil Dolcini, Barbara Hall, George Grossi, Sam Dolcini, Dick Respini and of course Terry and Phyllis Hartley. It was successful in spite of the rain.

• • •

Thank you to all the landowners who participated in our poll of those included in the boundary of the proposed Pt. Reyes National Seashore Farmland Protection Act. Every voice helped in our decision as a board. Thank you to all those who came and voiced their opinions in person at our last board meeting. I was impressed by the constructive nature of comments on an issue which is emotional to these people. Farm Bureau is an agricultural organization, and some of our strongest policy deals with preservation of private property rights and limitation of government-held lands. The reason for this is that all of our ag operations are dependent on the land with our rights protected. Without those rights, we may not have ag operations, and if we don't have our ag operations why have an ag organization?

I have consistently tried to state the facts that I have learned because when I was first told of this legislation I was misled and I did not more closely study the issue. I was told it was a funding mechanism for Marin Agricultural Land Trust. In the original literature it was not stated that all the land was to become part of the park. I have now read the actual legislation (original and all revised versions) and the fact is that this is not now, and never was, a funding mechanism for MALT.

I am in favor of the voluntary use of agriculture conservation easements. My family's ranch has a MALT easement. I also am an active member on the board of directors of MALT. If there is any question as to the validity of my statements that this is a park expansion bill, please read the legislation. We are becoming partners with the government, not on a voluntary basis, and in many cases without compensation.

As I research the original park bill which created the Seashore in 1962, I find that it included language which protected landowners with parcels of over 500 acres. These lands were to remain as privately held lands (with park designation) as long as they were kept in a natural state or in productive ag. Ag was even defined in the bill. But not one acre is privately held today. History has a way of repeating itself (except there is a huge difference in the availability of funding for acquisition of lands for parks from then to now.)

I also must point out to our general membership that California Farm Bureau Federation called our attention to the fact that funds for conservation easements, $35 million, are available through the USDA. None of the property would have to become part of the Park and those who want to sell easements could do so.

We indicated to Ms. Woolsey the vote of our board and hopefully she will follow through on her assurances and quit working on the legislation. She assured us that without Farm Bureau and landowners support she will stop this park expansion effort.

• • •

Last month I was included as a participant in the CFBF National Affairs Trip to Washington D.C. From my visit with Congresswoman Woolsey I must commend her for support of legislation which would increase the inheritance tax exemption. This legislation would provide relief for many of us in agriculture who have family owned lands which have appreciated in value to the point which would necessitate partial or complete loss of the operation to pay inheritance taxes as it is passed from one generation to the next. Another highlight of the trip was the visit with Senator Feinstein. I was able to explain to her that the current laws penalize those who are doing the best job of protecting the environment while producing food. I also indicated that we must be profitable. She stated that she feels the electorate wants the good things that agriculture provides—food, habitat, beautiful scenery—and that she is willing to work with those in agriculture to protect those things possibly on an incentive basis. We also stressed that the laws should be applied to those with any size acreage. She wants exemptions for landowners of small parcels. But if everyone has to comply, possibly losing the use of a corner of a backyard, they would be more aware of the difficulties the legislation creates for us.

Unfortunately, the bottom line in all of our meetings with the various legislators was that this is an election year. That means one thing: don't expect too many controversial issues to be constructively solved.

Sonoma County Farm Bureau

John Bucher
President

At our May Board meeting, Sonoma County Farm Bureau followed Marin County Farm Bureau in opposing Congresswoman Lynn Woolsey's Point Reyes National Seashore Farmland Protection bill.

Although the purchase of conservation easements on a voluntary basis is a concept we can support, the language in this proposed legislation goes against CFBF and AFBF policy. We have given input to at least three drafts of this bill over the past year yet our main concerns have still not been addressed. They include eminent domain language, lack of adequate funding, and the elimination of the boundary zone.

This bill would still allow the Secretary of Interior the option of taking property within the park expansion boundary. The "takings" issue is a huge property rights concern of Farm Bureau. This does not sound like a voluntary program to me.

The lack of adequate funding is another concern. This proposed legislation has a matching funds provision in it which is not beneficial to the property owners stuck inside the park boundary. For every local dollar that has been or will be spent in the boundary zone, federal dollars will be appropriated on a one to one basis.

This funding mechanism will drag the purchase of easements out for years and even decades because only a fraction of the estimated cost of easements will be appropriated. This will be based on past local dollars spent on conservation easements within the boundary by groups such as MALT, Sonoma Land Trust, and the Ag and Open Space District.

With the majority of the 38,000 acre expansion proposal in Marin County and the fact that MALT is low on funding, many of the property owners within the boundary will not see any money for their easements for years. But starting on day one, all property owners have the pleasure of sitting in a park boundary designation. I would call that an infringement on property rights or even a partial taking without due compensation.

The park boundary zone would have to be eliminated. Removing the boundary zone or giving the proposed bill full funding are major steps in the right direction. Congresswoman Woolsey continues to say that this is a voluntary program when, in fact, it is not. The landowners within the boundary were not given a choice of "in or out." In fact, most didn't even know their ranches would be part of a park boundary until Marin County Farm Bureau brought it to everyone's attention almost two years ago. The only way this proposal can be truly voluntary is if the landowners have the option of being in the boundary or eliminating the boundary completely.

Elimination of the boundary is the best solution. This would make Woolsey's proposal more in line with what MALT and the Ag and Open Space District are currently doing. This is what the original intent of this legislation was, anyway: finding a funding mechanism for MALT. Instead of MALT funding, we are getting a park designation, which is very different. The easement's value should be based on fair market value and not fair "park" value.

I hope Congresswoman Woolsey will take our requests and incorporate them into the proposed legislation to show the landowners, farmers, and ranchers, that she truly wants to help agriculture. Otherwise, many will view her tactics as an agricultural smoke screen to push a strictly environmental agenda upon the landowners in the park designation.

Unfortunately, I am not optimistic that agriculture will be accommodated in this bill. During previous conversations with her office staff, it was made clear that the boundary zone had to stay in to get federal funding. If that is the case, it will be difficult, if not impossible, for Farm Bureau to support a piece of legislation such as this.

An alternate solution would be to ask Congresswoman Woolsey to lobby for USDA funds earmarked for protecting farmland through the purchase of conservation easements. These are funds totaling $35 million that are available since the passage of the Farm Bill. It makes more sense and it will be more "farmer friendly" than funding this through the Department of Interior. Farmland does not have to be put in a national park to be saved.

93

The Honorable Lynn Woolsey
U.S. House of Representatives
439 Cannon Building
Washington D.C. 20515

The Honorable Richard W. Pombo
U.S. House of Representatives
Washington D.C. 20515

The Honorable Don Young
U.S. House of Representatives
Washington D.C. 20515

The Honorable James Hansen
U.S. House of Representatives
Washington D.C. 20515

The Honorable Dianne Feinstein
U.S. Senate
331 Hart Senate Office Building
Washington D.C. 20510

The Honorable Barbara Boxer
U.S. Senate
112 Hart Senate Office Building
Washington D.C. 20510

MARIN COUNTY FARM BUREAU

520 Mesa Road, P.O. BOX 219
Point Reyes Station, California 94956
(415) 663-1251, FAX (415) 663-1141

May 9, 1997

The Honorable Lynn Woolsey
U.S. House of Representatives
439 Cannon Building
Washington, D.C. 20515

Re: H.R. 1135 Pt. Reyes National Seashore Farmland Protection Act

Dear Honorable Woolsey,

I am writing on behalf of the Marin County Farm Bureau to reaffirm our position of opposition. Our continued opposition is based on Farm Bureau policy and property owners position. This legislation is a park expansion bill which would include 38,000 acres of privately held agricultural lands as park land. Many of the landowners will receive no compensation for their land being included in the Park. We are joined by the American Farm Bureau Federation, California Farm Bureau Federation, Sonoma County Farm Bureau, California Cattlemen's Association and the North Bay Wool Growers in our opposition. These farm related organizations and the overwhelming majority of landowners realize this legislation, as stated in the bill, expands the park and will not preserve agriculture.

Our Farm Bureau has actively supported the use of voluntary conservation easements for the protection of agricultural land, and would like to have voluntary USDA agricultural conservation easements used for this purpose. These easements are truly aimed at preservation of agricultural land, unlike the proposed legislation which actually creates park land. The proposed expansion area has numerous governing agencies (i.e. California Coastal Commission, Gulf of Farlones Sanctuary, Marin and Sonoma County Zoning (A-60 and A-130) currently restricting the use and as a result the "national interest" of the Pt. Reyes National Seashore is not in jeopardy.

These landowners have taken care of this land for many generations and should be rewarded by allowing them to continue to manage their lands as viable agricultural operations not park lands.

Sincerely,

Gordon Thornton
President

94

MARIN COUNTY FARM BUREAU

P.O. BOX 219
POINT REYES STATION, CALIFORNIA 94956
TELEPHONE 663-1231

July 11, 1996

Honorable Lynn Woolsey
U. S. House of Representatives
439 Cannon HOB
Washington, D C. 20515

RE Point Reyes National Seashore Farmland Protection act
Landowner Survey Results

Dear Ms Woolsey,

The Board of Directors have instructed me to clarify the Landowner Survey Results. All of the landowners in the boundary for the proposed Point Reyes National Seashore Park Boundary Expansion were sent a survey along with a copy of the most recent draft of the bill in April 1996 The landowners were asked to respond by May 10th by checking the following categories:

____In favor of the Bill.
____Oppose the Bill.
____Do not understand, would like more information.
____Do not want to be included in survey.

The results of the survey are as follows for Marin County only:

	Number of Parcels	Number of Acres
Marin County property in affected area:	179	32,481.50
Opposed the Bill.	69	14,094.40
In favor of the Bill..	43	8,765.10
Needed more information or did not want to be included in the survey	14	4,329.74
Did not respond to the survey	53	5,292.26

The Marin County Farm Bureau was not able to count the number of landowners in favor or opposed to the bill. The information that was provided to us did not include the names of all of the owners for each parcel, therefore, the Farm Bureau gave each parcel one vote.

This letter is being sent to you to help clarify the unfortunate misunderstanding regarding the results of the survey. An inaccurate total number of landowners has been quoted in recent newspaper articles and we want to insure that you have the correct results.

We hope that this clears this matter up for you and that you will now trust our poll results. Should you have any questions regarding the results of this survey, please contact us directly

Thank you for your attention to this matter.

Sincerely,

Martin Pozzi
President

George Grossi
Land Use Chairman

cc: Don Young

96

MARIN COUNTY FARM BUREAU
P. O. BOX 219
POINT REYES STATION, CALIFORNIA 94956
TELEPHONE 415-663-1231

Honorable Lynn Woolsey
U. S. House of Representatives
Washington D.C. 20515

November 10, 1995

Dear Congresswoman Woolsey,

RE: HR 3079 Point Reyes Seashore Protection Bill

On July 13, 1994 the Marin County Farm Bureau gave our conditional support for HR 3079, the Point Reyes Seashore Protection Bill. The Marin County Farm Bureau Board of directors has directed me to indicate to you that we cannot support this bill. We have many serious concerns that have not been adequately addressed. We know you are working hard on this Bill and hope to have dialogue with you regarding it. We hope to hear from you soon.

Sincerely,

Martin Pozzi

Martin Pozzi
President, Marin County Farm Bureau
(707) 766-9028

97

July 23, 1997

FRESNO COUNTY FARM BUREAU

Our 80th year

Phil Larson
President

Rick Milton
First
Vice President

Paul H. Betancourt
Second
Vice President

Debbie A. Jacobsen
Secretary
Treasurer

Irene Clements
Assistant Manager

1274 West Hedges
Fresno, CA 93728
(209) 237-0263
FAX: (209) 237-3396

Affiliated with the
California and
American Farm
Bureau Federations

The Honorable Calvin Dooley
House of Representatives
1201 Longworth H.O.B.
Washington, D.C. 20515

Dear Congressman Dooley:

We are aware you are co-sponsoring, H.R. 1195, a bill to expand the Point Reyes National Seashore. The result of this bill will be parkland designation for 38,000 acres of private farmland. It appears to be represented as a farmland preservation package, when in fact, those affected, see it only as a park expansion bill.

Most landowners oppose this bill, along with Farm Bureaus in Marin and Sonoma Counties as well as the California Farm Bureau Federation and the American Farm Bureau Federation. Those affected by this piece of legislation see as negatives: severe property value declines, loss of property rights, and ultimately condemnation of farmland by the National Park Service.

We urge you to look at this bill closely and would like the opportunity to meet and discuss this issue with you or Cheryl Lehn.

Thank you for your prompt attention and response to this important issue. Please contact us if you have any questions.

Sincerely,

Phil Larson, President
Fresno County Farm Bureau

PL:sf

cc: Congressman George Radanovich
Congressman Gary Condit
Cheryl Lehn, Congressman Dooley Representative
Bruce Blodgett - California Farm Bureau Federation
Art Dove - California Farm Bureau Federation Field Representative
Select County Farm Bureaus: Marin, Sonoma, Kings, Merced, Kern, Tulare, Madera, Stanislaus, Santa Cruz, San Joaquin, Santa Clara

Kings County Farm Bureau

870 Greenfield Avenue • Hanford, California 93230 • Telephone (209) 584-3557

JUL 2 8 1997

July 21, 1997

The Honorable Calvin Dooley
House of Representatives
1201 Longworth H.O.B.
Washington, D C 20515

Dear Cal:

We understand you are co-sponsoring a bill to expand the Point Reyes National Seashore, HR 1995. This bill will result in parkland designation for 38,000 acres of private farmland. It seems to be represented as a farmland preservation package, when in fact, those affected, see it only as a park expansion bill.

Most landowners oppose this bill along with Farm Bureaus in Marin and Sonoma Counties as well as CFBF & AFBF. Those affected see as negatives: severe property value declines, loss of property rights, and ultimately condemnation of farmland by the Park Service.

We urge you to look at this bill closely and would like the opportunity to meet with you or Cheryl to discuss this issue.

Thank you for your prompt attention and response to this important issue. Please feel free to contact us if you have any questions.

Sincerely,

George L. Longfellow, Jr.
President

cc: Congressman Gary Condit
Cheryl Lehn, Congressman Dooley Representative
CFBF, Bruce Blodgett
Judi Rogers, CFBF Field Representative
Select County Farm Bureaus: Marin, Sonoma, Fresno, Merced, Kern, Tulare, Madera, Stanislaus, Santa Cruz, San Joaquin, Santa Clara

Serving Agriculture Since 1918

99

Sonoma County Taxpayers' Association

P.O. Box 14241, Santa Rosa, CA 95402-6241, 707 542-8442, Fax 576-1697

June 13, 1997

Sonoma County Board of Supervisors
575 Administration Drive
Santa Rosa, CA 95403

Dear Supervisors:

At the request of several of our members the Sonoma County Taxpayers' Association has studied this issue and taken a position to oppose the Point Reyes Farmland Protection Act written by Lynn Woolsey. We urge you to also oppose this legislation.

The Sonoma County Taxpayers' Association and many of the property owners involved feel this legislation would cause them to suffer lower property values due to this legislation without concurrent public benefit.

The $30 million proposed appropriation won't come close to covering the costs of this program and is a waste of taxpayers' money. Local government might be forced to use our local Open Space money designated for community separators to matching federal dollars. This is unnecessary and restrictive legislation of the type that is crippling the Nation's businesses (including farmers and ranchers) with little benefit.

Sincerely,

Jeanne Levin
President

cc: Lynn Woolsey
Open Space District
Blind cc: Sonoma County Farm Bureau
Wilmer P. and Olive S. Blanchard
Mary Coletti
Elizabeth Hanlein

100

North Bay Wool Growers Assoc., Inc.
P.O. Box 303
Valley Ford, California 94972

May 15, 1997

Honorable Lynn Woolsey
U.S. House of Representatives
439 Cannon Building
Washington, D.C. 20515

RE: H.R. 1995, Pt. Reyes National Seashore Farmland Protection Act

Dear Honorable Woolsey,

The North Bay Wool Growers' Board of Directors voted on May 14, 1997 to again oppose the Point Reyes National Seashore Farmland Protection Act joining the opposition from the other farm related organizations and the majority of landowners who have opposed this bill in Marin and Sonoma Counties.

This bill would include approximately 38,000 acres of which 10,000 are already protected from development. In addition, the strict zoning in Marin County and in Sonoma County prevents any real development in those two counties already, therefore this legislation is not needed.

Sincerely,

Donna Furlong

Donna Furlong
Legislative Committee

cc: Honorable Barbara Boxer
Honorable James Hansen
Honorable Dianne Feinstein
Honorable Richard Pombo
Honorable Don Young

Congresswoman Lynn Woolsey July 29, 1996
House Office Building
Washington, D.C.

Dear Ms. Woolsey:

An analysis of your bill providing an expansion of the Point Reyes National Seashore, brings out the following:

1, With a National debt of 5 Trillion Dollars, it is obvious that any purchases not crucial to the continued existence of these United States should not be made now.

2, With one half of California already owned by various levels of government, California cannot afford to have more land taken off of the tax rolls.

3, The only source for the taxes which support the Federal government, and all other levels of government is the productive ability of private citizens. The most fundamental level of production is farming, "everyone's bread and butter". To remove more farmland from production is the most counter-productive action possible. Those who want you to confiscate more productive land are not good Americans, for that and higher taxes will mean the ruination of us all, including you.

4, Your bill is in direct violation of the Constitution of these United States, the supreme law of our land. If you would take the time to read the Constitution, you would find that the Federal government is allowed to own ten square miles, consisting of the District of Columbia, and "forts, magazines, arsenals, dockyards, and other needful BUILDINGS."

The 1996 Farm Bill, HR2854, is enough protection for the farmer, he needs no more. The farmer knows how to care for his land and make it productive, but to do so, he needs to be free of bureaucratic harassment.

Your bill is too long to comment on all aspects of it, but for a free America, prosperous under free enterprise, you must withdraw it.

Sincerely,

By order of the Board of Directors, Redwood Empire TRIM Committee

William W. Pisenti, President

AGRICULTURAL PROPERTY RIGHTS ALLIANCE

2030 Fallon Road
Petaluma, California 94952
(707) 762-7777

July 11, 1997

The Honorable Don Young
C/O Fax # (707)782-6085

Dear Mr. Young:

The Agricultural Property Rights Alliance is an organization of 275 ranchers and property owners in West Sonoma and West Marin counties who are dedicated to preserving property rights and responsible management of our lands in Sonoma and Marin. We are opposed to the Point Reyes National Seashore Farmland Protection Act, HR 1995

Lynn Woolsey has introduced her bill without the approval of the landowners or the Farm Bureaus in Sonoma and Marin counties. She has been very selective in the distribution of materials and invitations to her discussion meetings. In addition, her bill duplicates legislation an regulations already in force in this area such as the Williamson Act, county zoning, the Coastal Commission, and the Gulf of Farallon National Wildlife Sanctuary to name a few.

The bill is just an expensive duplication of existing rules and regulations that already restrict ranchers and property owners to responsible agricultural and environmental practices without the possibility of development. Most importantly, it eliminates any voluntary control of property by the property owners. This is unacceptable from our point of view.

My constituents implore you to block this unnecessary and expensive legislation.

Sincerely,

Richard Shannon
Chairman, APRA

REMY, THOMAS and MOOSE, LLP
ATTORNEYS AT LAW

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(916) 443-2745
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103

GEORGANNA E. FOONDOS
LAND USE ANALYST

BRIAN J. PLANT
OF COUNSEL

June 30, 1997

SENT VIA FACSIMILE
ORIGINAL TO FOLLOW VIA U.S. MAIL

Elizabeth Hanlein
33 Blanca Drive
Novato, California 94947

Mary Coletti
1286 S.E. 38th Street
Hillsboro, Oregon 97123

Dear Ms. Hanlein and Ms. Coletti:

As you requested, our office has reviewed the provisions of the proposed Point Reyes National Seashore Farmland Protection Act of 1997. In its current form, the potential effects of this proposal on landowners such as yourselves are summarized as follows:

- The designated Farmland Protection Area ("FPA") would be included as part of the Point Reyes National Seashore; the primary management objective for these properties would be to protect them from development.

- Privately owned properties within the FPA, or interests therein, [1] may be acquired by the federal government, by donation, purchase, or exchange. Government-owned lands can be acquired only through donation or exchange.

  - The sale of conservation easements/development rights is typically voluntary. Here, however, the government has reserved its authority to exercise eminent domain to acquire easements on lands in active ranching or agricultural

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[1] Such interests include development rights or conservation easements, which have been promoted as a means to preserve farmland. In general, conservation easements are interests in land that represent the right to prevent the development or improvement of the land for any purpose other than for conservation.

104 production.

- The federal government would enter agreements with public agencies or nonprofit organizations, such as the Marin Agricultural Land Trust, that would hold, monitor, and manage the federal government's interests.

  - The government's interest in lands within the FPA would be managed in a manner consistent with the purposes of the Point Reyes National Seashore Farmland Protection Act of 1997. This is problematic because the Act's purposes are not focused exclusively, or even primarily, on preserving land for agricultural use. Rather, the Act seeks primarily to prevent development. Of particular concern to property owners in the FPA is the fact that their lands would be designated as part of the Point Reyes National Seashore; some aspects of agricultural operations may be inherently incompatible with tourism. Thus, management and policy conflicts are certain to arise.

- Regulation of properties within the FPA technically remains within the jurisdiction of the state and local authorities unless or until they are acquired by the federal government; as part of a designated conservation zone within the Point Reyes National Seashore, however, the value of properties within the FPA is likely to decrease immediately because their potential for future development will be clouded, at best. [2]

  - Valuation

    The value of a conservation easement is generally calculated by taking the difference between the land's fair market value based on its highest and best use without easement restrictions and its restricted fair market value. For example, if an easement reduces the property's market valued from $150,000 (unrestricted value) to $60,000 (restricted value), the value of the easement is $90,000.

    *The "highest and best use" of property is usually considered subdivision/development. Accordingly, conservation easement programs such as this one are still a fairly expensive proposition. Here, however, by designating properties as part of the FPA within the Point Reyes National Seashore, these lands would be devalued because of the potential – indeed, likelihood – that uses would be severely restricted. Easements therefore would be valued on the "highest and best use" of agriculture rather than development.

    Furthermore, the government will be buying conservation easements, not fee

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[2]/ In the past, the National Park Service, under the auspices of the Point Reyes National Seashore Act and in combination with Marin County and some of its residents, has frozen potential development, conspired to deprive owners of needed right-of-way upgrades, engineered permit denials, isolated parcels, designed coercive timing, and issued public communications calculated to chill development. (Drakes Bay Land Co. v. United States 424 F.2d 574 (Ct. Cl. 1970).)

interests. It is not clear if the easements contemplated under the Act are to be for a specific term, or more likely, easements in perpetuity. [3] Locking property into fixed uses presents serious concerns. Here, for example, there appear to be no provisions to compensate the private owner of the fee if, due to changed circumstances, the agricultural uses of the land become infeasible and the owner is left, over time, with no reasonable use of the property. [4]

The specific language of the Point Reyes National Seashore Farmland Act of 1997 is set forth below.

The proposed "Point Reyes National Seashore Farmland Protection Act of 1997" begins with the following introductory sections:

SECTION 1. SHORT TITLE

This Act may be cited as the "Point Reyes National Seashore Farmland Protection Act of 1997".

SECTION 2. PURPOSES

The purposes of this Act are to:

(1) protect the pastoral nature of the land adjacent to the Point Reyes National Seashore from development that would be incompatible with the character, integrity, and visitor

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[3]/ California has established a minimum term of twenty years for conservation easements. (Gov. Code, § 51053.)

[4]/ At common law, the equitable doctrine of changed conditions allowed a court to terminate a land restriction when conditions changed in or around the restricted land in such a way that the restriction imposed "undue hardship" on the landowner. Today there is substantial debate about the applicability of the doctrine of changed conditions to conservation easements. (See generally, Jeffrey A. Blackie, "Conservation Easements and the Doctrine of Changed Conditions," 40 Hastings L.J. 1187 (1989); Vivian Quinn, "Preserving Farmland with Conservation Easements: Public Benefit or Burden?" 1992/1993 Ann. Surv. Am. L. 235.)

experience of the park;

(2) create a model public/private partnership among the Federal, State, and local governments, as well as organizations and citizens that will preserve and enhance the agricultural lands along Tomales and Bodega Bay Watersheds;

(3) protect the substantial Federal investment in Point Reyes National Seashore by protecting land and water resources and maintaining the relatively undeveloped nature of the land surrounding Tomales and Bodega Bays; and

(4) preserve productive uses of lands and waters in Marin and Sonoma Counties adjacent to Point Reyes National Seashore, primarily by maintaining the land in private ownership restricted by conservation easements.

* * *

The remaining proposed provisions are additions or amendments to the existing statute establishing the Point Reyes National Seashore. Language proposed to be added to the existing statute is indicated by underlining. Language proposed to be deleted from the existing statute is indicated by ~~striking out~~.

UNITED STATES CODE ANNOTATED
TITLE 16. CONSERVATION
CHAPTER 1--NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES
SUBCHAPTER LXIII--NATIONAL SEASHORE RECREATIONAL AREAS

§ 459c. Point Reyes National Seashore; purposes; authorization for establishment

In order to save and preserve, for purposes of public recreation, benefit, and inspiration, a portion of the diminishing seashore of the United States that remains undeveloped, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to take appropriate action

in the public interest toward the establishment of the national seashore set forth in section 459c-1 of this title.

§ 459c-1. Description of area

(a) Boundary map; availability; publication in Federal Register

The Point Reyes National Seashore shall consist of the lands, waters, and submerged lands generally depicted on the map entitled "Boundary Map, Point Reyes National Seashore", numbered 612-80,008-E and dated May 1978, plus those areas depicted on the map entitled "Point Reyes and GGNRA Amendments, dated October 25, 1979".

The map referred to in this section shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing, the Secretary may make minor revisions of the boundaries of the Point Reyes National Seashore when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(b) Bear Valley Ranch right-of-way

The area referred to in subsection (a) of this section shall also include a right-of-way to the aforesaid tract in the general vicinity of the northwesterly portion of the property known as "Bear Valley Ranch", to be selected by the Secretary, of not more than four hundred feet in width, together with such adjoining lands as would be deprived of access by reason of the acquisition of such right-of-way.

(c) Addition of Farmland Protection Area to Point Reyes National Seashore

The Point Reyes National Seashore shall also include the Farmland Protection Area depicted on the map numbered 612/60,163 and dated July, 1995. Such map shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia.

(d) Acquisition of Development Rights

Within the Farmland Protection Area depicted on the map referred to in section 2(c) of this Act the primary objective shall be to maintain agricultural land in private ownership protected from nonagricultural development by conservation easements.

§ 459c-2. Acquisition of property

(a) Authority of Secretary; manner and place; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary; liability of United States under contracts contingent on appropriations

The Secretary is authorized to acquire, and it is the intent of Congress that he shall acquire as rapidly as appropriated funds become available for this purpose or as such acquisition can be accomplished by donation or with donated funds or by transfer, exchange, or otherwise the lands, waters, and other property, and improvements thereon and any interest therein, within the areas described in section 459c-1 of this title or which lie within the boundaries of the seashore as established under section 459c-4 of this title (hereinafter referred to as "such area"). Any property, or interest therein, owned by a State or political subdivision thereof may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of sections 459c to 459c-7 of this title. In exercising his authority to acquire property in accordance with the provisions of this subsection, the Secretary may enter into contracts requiring the expenditure, when appropriated, of funds authorized by section 459c-7 of this title, but the liability of the United States under any such contract shall be contingent on the appropriation of funds sufficient to fulfill the obligations thereby incurred.

(b) Payment for acquisition; fair market value

The Secretary is authorized to pay for any acquisitions which he makes by purchase under sections 459c to 459c-7 of this title their fair market value, as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

(c) Exchange of property; cash equalization payments

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within California and adjacent States, notwithstanding any other provision of law. The properties so exchanged shall be approximately equal in fair market value, provided that the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

(d) Authority for Farmland Acquisition and Management

(1) Notwithstanding subsections (a) through (c) of this section, the Secretary, to encourage continued agricultural use, may acquire lands or interests in lands from the owners of such lands within the Farmland Protection Area depicted on the map referred to in section 2(c) of this Act. Except as provided in paragraph (3), lands and interests in lands may only be acquired under this subsection by donation, purchase with donated or appropriated funds, or exchange. Lands acquired under this subsection by exchange may be exchanged for lands located outside of the State of California, notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(2) (A) The Secretary shall give priority to (i) acquiring interests in lands through the purchase of development rights and conservation easements, (ii) acquiring lands and interests therein from nonprofit corporations and public agencies operating primarily for conservation purposes, and (iii) acquiring lands and interests therein by donation or exchange.

(B) The Secretary shall not acquire any conservation easements on lands within the Farmland Protection Area from nonprofit organizations which were acquired by such nonprofit organizations prior to January 1, 1997.

(C) For the purpose of managing, in the most cost effective manner, interests in lands acquired under this subsection, and for the purposes of maintaining continuity with lands that have existing easements, the Secretary shall enter into cooperative agreements with public agencies or nonprofit organizations having substantial experience holding, monitoring, and managing conservation easements on agricultural land in the region, such as the Marin Agricultural Land Trust, the Sonoma County Agricultural Preservation and Open Space District, and the Sonoma Land Trust.

(3) (A) Within the boundaries of the Farmland Protection Area depicted on the map referred to in section 2(c), absent an acquisition of privately owned lands or interests therein by the United States, nothing in this Act shall authorize any Federal Agency or official to regulate the use or enjoyment of privately owned lands, including lands currently subject to easements held by the Marin Agricultural Land Trust, the Sonoma County Agricultural Preservation and Open Space District, and the Sonoma Land Trust, and such privately owned lands shall continue under the jurisdiction of the State and political subdivisions within which they are located.

(B) The Secretary may permit, or lease, lands acquired in fee under this subsection. Any such permit or lease shall be consistent with the purposes of the Point Reyes National Seashore Farmland Protection Act of 1997. Notwithstanding any other provision of law, revenues derived from any such permit, or lease, may be retained by the Secretary, and such revenues shall be available, without further appropriation, for expenditure to further the goals and objectives of agricultural preservation within the boundaries of the area depicted on the map referred to in section 2(c).

(C) Lands, and interests in lands, within the area depicted on the map referred to in section 2(c) of this Act which are owned by the State of California, or any political subdivision thereof, may be acquired only by donation or exchange.

(4) Section 5 shall not apply with respect to lands and interests in lands acquired under this subsection.

§ 459c-3. Repealed. Pub.L. 91-223, § 2(b), Apr. 3, 1970, 84 Stat. 90

Section, Pub.L. 87-657, § 4, Sept. 13, 1962, 76 Stat. 540, provided conditions for exercise of eminent domain within pastoral zone and defined the term "ranching and dairying purposes".

§ 459c-4. Point Reyes National Seashore

(a) Establishment; notice in Federal Register

As soon as practicable after September 13, 1962, and following the acquisition by the Secretary of an acreage in the area described in section 459c-1 of this title, that is in the opinion of the Secretary efficiently administrable to carry out the purposes of sections 459c to 459c-7 of this title, the Secretary shall establish Point Reyes National Seashore by the publication of notice thereof in the Federal Register.

(b) Distribution of notice and map

Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 459c-1 of this title. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the State and to the governing body of each of the political subdivisions involved; (2) cause a copy of such notice and map to be published in one or more newspapers which circulate in each of the localities; and (3) cause a certified copy of such notice, a copy of such map, and a copy of sections 459c to 459c-7 of this title to be recorded at the registry of deeds for the county involved.

§ 459c-5. Owner's reservation of right of use and occupancy for fixed term of years or life

(a) Election of term; fair market value; termination; notification; lease of Federal lands: restrictive covenants, offer to prior owner or leaseholder

Except for property which the Secretary specifically determines is needed for interpretive or

resources management purposes of the seashore, the owner of improved property or of agricultural property on the date of its acquisition by the Secretary under sections 459c to 459c-7 of this title may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of sections 459c to 459c-7 of this title, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under sections 459c to 459c-7 of this title, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of sections 459c to 459c-7 of this title. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or was a leaseholder thereon immediately before its acquisition by the United States.

(b) "Improved and agricultural property" defined

As used in sections 459c to 459c-7 of this title, the term "improved property" shall mean a private noncommercial dwelling, including the land on which it is situated, whose construction was begun before September 1, 1959, or, in the case of areas added by action of the Ninety-fifth Congress, May 1, 1978, or, in the case of areas added by action of the Ninety-sixth Congress, May 1, 1979, and structures accessory thereto (hereinafter in this subsection referred to as "dwelling"), together with such amount and locus of the property adjoining and in the same ownership as such dwelling as the Secretary designates to be reasonably necessary for the enjoyment of such dwelling for the sole purpose of noncommercial residential use and occupancy. In making such designation the Secretary shall take into account the manner of noncommercial residential use and occupancy in which the dwelling and such adjoining property has usually been enjoyed by its owner or occupant. The term "agricultural property" as used in sections 459c to 459c-7 of this title means lands which were in regular use for, or were being converted to agricultural, ranching, or dairying purposes as of May 1, 1978, or, in the case of areas added by action of the Ninety-sixth Congress, May 1, 1979, together with residential and other structures related to the above uses of the property that were in existence or under construction as of May 1, 1978.

(c) Payment deferral; scheduling; interest rate

In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of sections 459c to 459c-7 of this title, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.

(d) Lands donated by State of California

The Secretary is authorized to accept and manage in accordance with sections 459c to 459c-7 of this title, any lands and improvements within or adjacent to the seashore which are donated by the State of California or its political subdivisions. He is directed to accept any such lands offered for donation which comprise the Tomales Bay State Park, or lie between said park and Fish Hatchery Creek. The boundaries of the seashore shall be changed to include any such donated lands.

(e) Fee or admission charge prohibited

Notwithstanding any other provision of law, no fee or admission charge may be levied for admission of the general public to the seashore.

§ 459c-6. Administration of property

(a) Protection, restoration, and preservation of natural environment

Except as otherwise provided in sections 459c to 459c-7 of this title, the property acquired by the Secretary under such sections shall be administered by the Secretary without impairment of its natural values, in a manner which provides for such recreational, educational, historic preservation, interpretation, and scientific research opportunities as are consistent with, based upon, and supportive of the maximum protection, restoration, and preservation of the natural environment within the area, subject to the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented, and in accordance with other laws of general application relating to the national park system as defined by sections 1b to 1d of this title, except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459c to 459c-7 of this title.

(b) Hunting and fishing regulations

The Secretary may permit hunting and fishing on lands and waters under his jurisdiction within the seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable local, State, and Federal law. The Secretary shall consult with officials

of the State of California and any political subdivision thereof who have jurisdiction of hunting and fishing prior to the issuance of any such regulations, and the Secretary is authorized to enter into cooperative agreements with such officials regarding such hunting and fishing as he may deem desirable.

§ 459c-6a. The Clem Miller Environmental Education Center; designation

The Secretary shall designate the principal environmental education center within the seashore as "The Clem Miller Environmental Education Center", in commemoration of the vision and leadership which the late Representative Clem Miller gave to the creation and protection of Point Reyes National Seashore.

§ 459c-6b. Cooperation with utilities district; land use and occupancy; terms and conditions

The Secretary shall cooperate with the Bolinas Public Utilities District to protect and enhance the watershed values within the seashore. The Secretary may, at his or her discretion, permit the use and occupancy of lands added to the seashore by action of the Ninety-fifth Congress by the utilities district for water supply purposes, subject to such terms and conditions as the Secretary deems are consistent with the purposes of sections 459c to 459c-7 of this title.

§ 459c-7. Authorization of appropriations; restriction on use of land

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 459c to 459c-7 of this title, except that no more than $57,500,000 shall be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of such sections: Provided, That no freehold, leasehold, or lesser interest in any lands hereafter acquired within the boundaries of the Point Reyes National Seashore shall be conveyed for residential or commercial purposes except for public accommodations, facilities, and services provided pursuant to sections 20 to 20g and 462(h) of this title. In addition to the sums heretofore authorized by this section, there is further authorized to be appropriated $5,000,000 for the acquisition of lands or interests therein.

In addition to the sums authorized to be appropriated by this section before the enactment of the Point Reyes National Seashore Farmland Protection Act of 1997, there is authorized to be appropriated $30,000,000 to be used on a matching basis to acquire land and interests in land under section 3(d). The Federal share of the costs of acquiring land and interests in lands under section 3(d) shall be one half of the total costs of such acquisition. The non-Federal share of such acquisition costs may be in the form of property, monies, services, or in-kind contributions, fairly valued. For such purposes, any lands or interests in lands that are within the boundaries

of the area depicted on the map referred to in section 2(c), that are currently held under a conservation easement by the Marin Agricultural Land Trust, the Sonoma Land Trust, the Sonoma County Agricultural Preservation and Open Space District, or any other land protection agency or by the State of California or any political subdivision thereof shall be considered a matching contribution from non-Federal sources in an amount equal to the fair market value of such lands or interests in land, as determined by the Secretary.

* * *

I hope this information is helpful. Should you have any questions or concerns, please do not hesitate to call.

Very truly yours,

Michael H. Remy

7060595.001

July 7, 1997

115

Honorable Don Young
U.S. House of Representatives
Washington, D.C. 20515

Re: H.R. 1995 Pt. Reyes National Seashore Farmland Protection Act

Dear Honorable Young,

This is a bill to expand the Point Reyes National Seashore by 38,000 acres of privately owned land. My family owns 400 acres in the boundary and we are against this act. I am sending you the following documents:

Remy, Thomas and Moose Attorneys at Law letter dated June 30, 1997. The acts purposes are not focused on preserving land for ag use, but to prevent development.

Theresa A. Dennis, Attorney at law from the California Farm Bureau Federation, Department of Environmental Advocacy letter dated May 2, 1997. This letter also points out that this is not an act to preserve agriculture, but to add land to the Point Reyes National Seashore.

Bruce Blodgett, California Farm Bureau Federation, Director, National Affairs and Research. This letter also point out that this is a bill to expand the Pt. Reyes National Seashore.

The Marin County Farm Bureau sent a survey and a copy of the bill in April, 1996 to the landowners in the boundary. The results show that the majority of landowners in the boundary, who responded to the survey, were opposed to it. This bill has not addressed their concerns since that survey.

Marin Agricultural Land Trust News, Summer of 1996 which points out that "Marin Agricultural Land Trusts greatest challenge is to find a new source of funding for its conservation easement program.

Marin Agricultural Land Trust letter dated November, 1996 regarding the defeat of Measure A on the Marin County ballot, which would have provided $12.5 million over ten years for MALT's easement acquisition program.

In November, 1994, the Californians for Parks and Wildlife Initiative was defeated and the November, 1996 local bill was defeated. I agree with the voters in Marin County and do not want to see my tax dollars spent on open space. Where will Marin County obtain the matching funds to perpetuate this program then?

Please stop this bill now, we do not want or need it.

Sincerely,

Elizabeth Hanlein

Elizabeth Hanlein
33 Bianca Drive
Novato, California 94947

Mary Blanchard Colett
property address:
2799 Dillons Beach Rd.

116

California Farm Bureau Federation

1601 Exposition Boulevard • Sacramento, CA 95815 • (916) 924-4000

March 20, 1997

Gordon Thornton
P.O. Box 64
Tomales, California 94971

Dear Mr. Thornton:

Thank you for sending me Congresswoman Lynn Woolsey's latest park bill. CFBF policy would still prohibit us from supporting such legislation for a number of reasons.

First, and foremost, this is still a bill to expand the Point Reyes National Seashore. This bill may be packaged as a farmland preservation bill, but its true intent can be seen by the expansion of the park's boundaries to include 38,000 acres of private land.

For a park expansion bill, it is clear that the funding attached to this bill is inadequate. Some area landowners may state that at least they will be bringing money into programs like MALT. However, the tradeoff in this case is a park land designation and that is asking too much.

We do not believe that you preserve farm land by making it a park! Ms.Woolsey has tried to package this park bill as a farmland preservation bill which it is not. Designating land as a park will not help keep these farming operations viable, since every farmer will now have a new landlord, the National Park Service. The Interior department has a clear tract record showing that they do not understand farming operations, nor have they shown any willingness to learn about the needs of farmers and ranchers. Furthermore, asking landowners to become part of the park so they can have the small chance of obtaining a conservation easement is too high a price to pay for farm and ranch owners.

Another concern relates to the deletion of the eminent domain language. It is covered in greater detail in the attached analysis, but the bottom line is this legislation does not prevent the agency from using condemnation as a means to acquire privately owned farmland.

This bill is the same park expansion bill, with a catchy new title. We must not lose sight of one key fact, this is a park expansion bill, not a farmland preservation bill and we can tell the difference.

Sincerely,

Bruce Blodgett
Director, National Affairs & Research

MAY '97

California Farm Bureau Federation
DEPARTMENT OF ENVIRONMENTAL ADVOCACY
1601 EXPOSITION BOULEVARD, FB 3
SACRAMENTO, CA 95815

CAROLYN S. RICHARDSON, Director
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TELEPHONE (916) 924-4036
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May 2, 1997

Mr. Gordon Thornton, President
Marin County Farm Bureau
P.O. Box 64
Tomales, California 94971

Re: Point Reyes Farmland Protection Act

Dear Mr. Thornton:

Pursuant to your request, attached is an analysis and some suggested amendments for the draft version of the "Point Reyes National Seashore Farmland Protection Act of 1997" (hereinafter referred to as Act). I hope the following information is helpful to you and the County Farm Bureau.

Sec. 2 Purposes

Although the "purposes" section does not legally provide the Secretary of the Interior with the authority to regulate private land within the Farmland Protection Area, it will be used to discern the Congressional intent behind the passage of this Act.

Subsection 1, line 8-13, page 1

The first subsection clearly indicates that the Act is intended to prevent development in the identified area that is incompatible with the character, integrity and visitor experience of the park. Development is not defined by the Act and could include the development of, or existing, agricultural practices that might be considered incompatible with the Point Reyes National Seashore. Incompatible practices could include those that contribute to nonpoint source pollution or the use of herbicides and pesticides. Although not specifically regulated by the Act, the congressional intent could be interpreted to include such practices. Conservation easements and land acquired pursuant to the Act could be managed and regulated in a way that would prohibit such incompatible practices.

118

Gordon Thornton
May 2, 1997
Page 2

Subsection 2, line 7, page 2

The use of the word "historic" also raises concerns with the purposes of the Act. What constitutes an historic agricultural land? Will this Act prevent new agricultural operations from being established in the Protection Area? The word "historic" and its intent should be clarified.

Subsections 3 and 4, lines 3-11, page 2

The Federal Government and the National Park Service is consciously aware that it cannot use its authority as a proprietor or a sovereign to regulate the use of private property within or nearby federally owned properties. Consequently, to satisfy the intent of subsection (3), the Federal Government needs some property interest in land adjacent to Tomales and Bodega Bays to control any use of the privately owned land. To achieve this goal, the Federal Government is proposing to purchase conservation easements to restrict private property.

Sec. 3 Addition of Farmland Protection Area to Point Reyes National Seashore and Acquisition of Development Rights

Subsection (c), lines 19-21, page 2

The language "[t]he Point Reyes National Seashore shall also include the Farmland Protection Area," clearly adds the subject 38,000 acres into the National Park boundaries. Although the Secretary of the Interior cannot directly regulate private property uses, even if they are within the park boundaries, inclusion within such an area may automatically result in use restrictions that devalue the property. For example, the county with jurisdiction may use its police power to further restrict the use of the property to meet Park Service objectives. Also, private landowners could be subject to eminent domain acquisitions of the land merely by inclusion within the area since the public purpose has already been established. In practicality, the inclusion within the area will decrease the property's fair market value making eminent domain acquisitions and the acquisition of conservation easements a cheaper prospect for the Federal Government.

Subsection (d), lines 3-7, page 3

Although the primary objective is to maintain agricultural land in private ownership, the purchase of a conservation easement will give the Secretary of the Interior the necessary property interest to regulate the use of the agricultural land in private ownership.

Sec. b Authority for Farmland Acquisition and Management

Subsection (d)(1), lines 17-18, page 3

There is still a reference to paragraph (3) which is presumably the eminent domain language that has been deleted. This reference should be deleted. With the deletion of the eminent domain language, lands in the protection area may be subject to eminent domain by the Park Service. To avoid the acquisition of property through eminent domain, subsection (d)(1) could be amended as follows:

> (d)(1) Notwithstanding subsections (a) through (c) of this section, the Secretary, to encourage continued agricultural use, may acquire lands or interests in lands from the owners of such lands within the Farmland Protection Area depicted on the map referred to in section 2(c) of this Act. ~~Except as provided in paragraph (3), l~~ Lands and interests in lands may only be acquired under this subsection from landowners voluntarily by donation, purchase with donated or appropriated funds, or exchange. Lands acquired under this subsection cannot be obtained through the Secretary's exercise of the right or eminent domain. Lands acquired under this subsection by exchange may be exchanged for lands located outside of the State of California, notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)). Lands acquired under this subsection shall be valued on their fair market value as it would be if the lands were not included in the Farmland Protection Area.

The last sentence added to subsection (d)(1) will ensure that the Farmland Protection Area designation does not decrease the property value of the lands in question.

Subsection (3)(A), lines 9-20, page 5

This section reiterates the current legal status of private land within park boundaries. Basically, the Federal Government cannot regulate the use or enjoyment of privately owned lands for it is a power that has been reserved to the States. Lands or interests in lands (including conservation easements) held by the Federal Government, however, are subject to the Federal Government's complete jurisdiction. Although the side editorial comment responds that the conservation easement will expressly permit hunting, predator control and the use of pesticides, there is no guarantee at law for such provisions. Such express permission may need to be negotiated with the purchase of individual conservation easements.

120

Gordon Thornton
May 2, 1997
Page 4

Sec. (c) **Authorization of Appropriations**

lines 10-21, page 7

This language allows currently held conservation easements to be used as a non-Federal matching fund. Previous provisions say that the Secretary shall not acquire any conservation easements in place prior to January 1, 1997. These two provisions appear to be in conflict with each other. If an existing conservation easement is used as matching funds, will it come under the Federal Government's jurisdiction? To avoid any conflicting interpretations, existing conservation easements should not be used as matching funds. Lines 10-21 should therefore be amended as follows:

> ~~For such purposes;~~ Any lands or interest in lands that are within the boundaries of the area depicted on the map referred to in section 2(c), that are currently held under a conservation easement by the Marin Agricultural Land Trust, the Sonoma Land Trust, the Sonoma County Agricultural Preservation and Open Space District, or any other land protection agency or by the State of California or any political subdivision thereof shall not be considered a matching contribution from non-Federal sources ~~in an amount equal to the fair market value of such lands or interests in land, as determined by the Secretary.~~

As you can see from above, the inclusion of 38,000 acres in the Point Reyes National Seashore, even though identified as a Farmland Protection Area, may have some spill over affects on privately held property in the designated areas.

Please call me if you have any further questions.

Yours very truly,

THERESA A. DENNIS

TAD:ljp

cc: Bruce Blodgett, National Affairs

WOOLSEY BILL ANALYSIS

March 1997 Draft

Page one

The changes on this page are not useful. While we appreciate the title of the bill, we do not believe that the title correctly states the true impact of this bill which is to expand the park, not preserve agriculture.

Page two

The changes made on this page do not address our concerns. This bill adds what is considered a farmland protection area to the boundary of the park. This means that farmland will now be incorporated into the park. In total 38,000 acres of privately owned farmland will become 38,000 acres of publicly managed farmland. In addition, since the use of this land will be restricted to farm use and park use, we can expect farm land values to diminish.

Page three

While the statement on lines 3-7 is certainly positive, we must not forget that the land will be restricted as park land. All uses of land including the farming activities will be subject to regulations as park land, not farm land. It is important to remember that the passage of this legislation will not cause problems in the first year, or even the second. It will be in 5, 10 or more years that agency personnel charged with managing this farmland will make decisions that will not be consistent with these farming operations.

On lines 12-22, the bill also makes its intent clear by identifying areas where the agency will be purchasing land in the future. Under this section the secretary may acquire lands in the newly created park zone.

Page four

Lines 3-9 will allow the federal government to purchase conservation easements from landowners, nonprofit corporation, and public agencies. If after January 1, 1997, a landowners sells an easement to a group like MALT, the federal government has the right under this legislation to acquire that easement.

Lines 10-14 would be more useful if this was not a park expansion bill. While it is true that the passage of this bill will not directly affect the conditions of your existing MALT easement, you would still see restrictions in the future based on the fact that your private farmland will be designated park land.

122

Page five

Lines 4-8, miss the mark. We did not ask that all reference to eminent domain be removed from this bill. With this new deletion, and with the language on page three encouraging the purchase of land within the new park boundary, we have left no guidance to the agency regarding how they should purchase these lands. This means the Secretary of Interior can and likely will use eminent domain to acquire lands. We believe that the language should read: "The Secretary may not exercise the right of eminent domain to acquire lands unless requested by the landowner to do so."

Lines 9-20 bring into consideration another issue. When the agency acquires interests in lands (conservation easements) they will have the ability to regulate private property. Since the agency will be acquiring an interest in those lands that are already subject to MALT easements through the premise of "matching" funds, this leaves too may gray areas for agency interpretation regarding future regulation of these properties. The phrase "absent the acquisition of privately owned lands or interests therein by the United States" would have to be removed.

Page seven

Funding remains an issue with this proposal. The promotional study completed in an effort to gain support for this bill shows property values for the 38,000 acres to be at or near $80 million. We are willing to bet that this number has been understated. In addition, the thirty million figure is irrelevant based on the ability of local interests to generate their matching funds.

Summary

As long as this bill adds land to the Point Reyes National Seashore, a catchy title for this area will not suffice. Again, there are other avenues. If Congresswoman Woolsey is interested in farmland preservation, she should be accessing funds available in the 1996 farm bill, and possibly introduce her own legislation to bring even more money to groups like MALT without mandating a park designation for farm properties . Do we not have enough faith in groups like MALT and the Sonoma districts to make wise decisions where they should allocate their resources? Do we not have enough faith in local government officials to make the right decisions regarding the future of this area? If I was a county Supervisor, this bill would be insulting to me as it implies that only congress knows how to plan for this area, not local governments.

MAY 2 8 1997
123

105TH CONGRESS
1ST SESSION

H. R. 1135

To provide for the protection of farmland at the Point Reyes National Seashore, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 1997

Ms. WOOLSEY (for herself and Mr. GILCHREST) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To provide for the protection of farmland at the Point Reyes National Seashore, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Point Reyes National Seashore Farmland Protection Act of 1997".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) protect the pastoral nature of the land adjacent to the Point Reyes National Seashore from de-

124

velopment that would be incompatible with the character, integrity, and visitor experience of the park;

(2) create a model public/private partnership among the Federal, State, and local governments, as well as organizations and citizens that will preserve and enhance the historic agricultural lands along Tomales and Bodega Bay Watersheds;

(3) protect the substantial Federal investment in Point Reyes National Seashore by furnishing watershed and environmental protection and maintaining the relatively undeveloped nature of the land surrounding Tomales and Bodega Bays; and

(4) preserve productive long-term agriculture and aquaculture in Marin and Sonoma Counties, primarily by maintaining the land in private ownership restricted by conservation easements.

SEC. 3. ADDITION OF FARMLAND PROTECTION AREA TO POINT REYES NATIONAL SEASHORE AND ACQUISITION OF DEVELOPMENT RIGHTS.

(a) ADDITION.—Section 2 of the Act entitled "An Act to establish the Point Reyes National Seashore in the State of California, and for other purposes" (16 U.S.C. 459c–1) is amended by adding at the end the following:

"(c) The Point Reyes National Seashore shall also include the Farmland Protection Area depicted on the

MAY 2 8

map numbered 612/60,163 and dated July, 1995. Such[125] map shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia.

"(d) Within the Farmland Protection Area depicted on the map referred to in section 2(c) of this Act the primary objective shall be to maintain agricultural land in private ownership protected from nonagricultural development by conservation easements."

(b) AUTHORITY FOR FARMLAND ACQUISITION AND MANAGEMENT.—Section 3 of such Act (16 U.S.C. 459c–2) is amended by adding at the end the following:

"(d)(1) Notwithstanding subsections (a) through (c) of this section, the Secretary, to encourage continued agricultural use, may acquire lands or interests in lands from the owners of such lands within the Farmland Protection Area depicted on the map referred to in section 2(c) of this Act. Except as provided in paragraph (3), lands and interests in lands may only be acquired under this subsection by donation, purchase with donated or appropriated funds, or exchange. Lands acquired under this subsection by exchange may be exchanged for lands located outside of the State of California, notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

"(2)(A) The Secretary shall give priority to (i) acquiring interests in lands through the purchase of development rights and conservation easements, (ii) acquiring lands and interests therein from nonprofit corporations operating primarily for conservation purposes, and (iii) acquiring lands and interests therein by donation or exchange.

"(B) The Secretary shall not acquire any conservation easements on land within the Farmland Protection Area from nonprofit organizations which were acquired by such nonprofit organizations prior to January 1, 1997.

"(C) For the purpose of managing, in the most cost effective manner, interests in lands acquired under this subsection, and for the purpose of maintaining continuity with lands that have existing easements, the Secretary shall enter into cooperative agreements with public agencies or nonprofit organizations having substantial experience holding, monitoring, and managing conservation easements on agricultural land in the region, such as the Marin Agricultural Land Trust, the Sonoma County Agricultural Preservation and Open Space District, and the Sonoma Land Trust.

"(3)(A) Within the boundaries of the Farmland Protection Area depicted on the map referred to in section 2(c), absent an acquisition of privately owned lands or in-

terests therein by the United States, nothing in this Act shall authorize any Federal agency or official to regulate the use or enjoyment of privately owned lands, including lands currently subject to easements held by the Marin Agricultural Land Trust, the Sonoma County Agricultural Preservation and Open Space District, and the Sonoma Land Trust, and such privately owned lands shall continue under the jurisdiction of the State and political subdivisions within which they are located.

"(B) The Secretary may permit, or lease, lands acquired in fee under this subsection. Any such permit or lease shall be subject to such conditions and restrictions as the Secretary deems necessary to assure the continued agricultural use of such lands in a manner compatible with the purposes of the Point Reyes National Seashore Farmland Protection Act of 1997. Notwithstanding any other provision of law, revenues derived from any such permit, or lease, may be retained by the Secretary, and such revenues shall be available, without further appropriation, for expenditure to further the goals and objectives of agricultural preservation within the boundaries of the area depicted on the map referred to in section 2(c).

"(C) Lands, and interests in lands, within the area depicted on the map referred to in section 2(c) of this Act which are owned by the State of California, or any political

subdivision thereof, may be acquired only by donation or exchange.

"(4) Section 5 shall not apply with respect to lands and interests in lands acquired under this subsection."

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 9 of such Act (16 U.S.C. 459c–7) is amended by adding at the end the following: "In addition to the sums authorized to be appropriated by this section before the enactment of the Point Reyes National Seashore Farmland Protection Act of 1997, there is authorized to be appropriated $30,000,000 to be used on a matching basis to acquire lands and interests in lands under section 3(d). The Federal share of the costs for acquiring land and interests in lands under section 3(d) shall be one half of the total costs of such acquisition. The non-Federal share of such acquisition costs may be in the form of property, monies, services, or in-kind contributions, fairly valued. For such purposes, any lands or interests in lands that are within the boundaries of the area depicted on the map referred to in section 2(c), that are currently held under a conservation easement by the Marin Agricultural Land Trust, the Sonoma County Agricultural Preservation and Open Space District, the Sonoma Land Trust, or any other land protection agency or by the State of California or any political subdivision thereof shall be considered a

matching contribution from non-Federal sources in an amount equal to the fair market value of such lands or interests in land, as determined by the Secretary.".

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130

105TH CONGRESS
1ST SESSION

H. R. 1995

IN THE HOUSE OF REPRESENTATIVES

Ms. WOOLSEY (for herself, Mr. GILCHREST, Mr. DINGELL, Mr. CAMPBELL, Mr. DOOLEY of California, and Mr. CONDIT) introduced the following bill; which was referred to the Committee on

A BILL

To provide for the protection of farmland at the Point Reyes National Seashore, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Point Reyes National Seashore Farmland Protection Act of 1997".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) protect the pastoral nature of the land adjacent to the Point Reyes National Seashore from development that would be incompatible with the character, integrity, and visitor experience of the park;

(2) create a model public/private partnership among the Federal, State, and local governments, as well as organizations and citizens that will preserve and enhance the agricultural lands along Tomales and Bodega Bay Watersheds;

(3) protect the substantial Federal investment in Point Reyes National Seashore by protecting land and water resources and maintaining the relatively undeveloped nature of the land surrounding Tomales and Bodega Bays; and

(4) preserve productive uses of lands and waters in Marin and Sonoma counties adjacent to Point Reyes National Seashore, primarily by maintaining the land in private ownership restricted by conservation easements.

SEC. 3. ADDITION OF FARMLAND PROTECTION AREA TO POINT REYES NATIONAL SEASHORE AND ACQUISITION OF DEVELOPMENT RIGHTS.

(a) ADDITION.—Section 2 of the Act entitled "An Act to establish the Point Reyes National Seashore in the

State of California, and for other purposes" (16 U.S.C. 459c–1) is amended by adding at the end the following:

"(c) The Point Reyes National Seashore shall also include the Farmland Protection Area depicted on the map numbered 612/60,163 and dated July, 1995. Such map shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia.

"(d) Within the Farmland Protection Area depicted on the map referred to in section 2(c) of this Act the primary objective shall be to maintain agricultural land in private ownership protected from nonagricultural development by conservation easements."

(b) AUTHORITY FOR FARMLAND ACQUISITION AND MANAGEMENT.—Section 3 of such Act (16 U.S.C. 459c–2) is amended by adding at the end the following:

"(d)(1) Notwithstanding subsections (a) through (c) of this section, the Secretary, to encourage continued agricultural use, may acquire lands or interests in lands from the owners of such lands within the Farmland Protection Area depicted on the map referred to in section 2(c) of this Act. Except as provided in paragraph (3), lands and interests in lands may only be acquired under this subsection by donation, purchase with donated or appropriated funds, or exchange. Lands acquired under this

subsection by exchange may be exchanged for lands located outside of the State of California, notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

"(2)(A) The Secretary shall give priority to (i) acquiring interests in lands through the purchase of development rights and conservation easements, (ii) acquiring lands and interests therein from nonprofit corporations operating primarily for conservation purposes, and (iii) acquiring lands and interests therein by donation or exchange.

"(B) The Secretary shall not acquire any conservation easements on land within the Farmland Protection Area from nonprofit organizations which were acquired by such nonprofit organizations prior to January 1, 1997.

"(C) For the purpose of managing, in the most cost effective manner, interests in lands acquired under this subsection, and for the purpose of maintaining continuity with lands that have existing easements, the Secretary shall enter into cooperative agreements with public agencies or nonprofit organizations having substantial experience holding, monitoring, and managing conservation easements on agricultural land in the region, such as the Marin Agricultural Land Trust, the Sonoma County Agri-

cultural Preservation and Open Space District, and the Sonoma Land Trust.

"(3)(A) Within the boundaries of the Farmland Protection Area depicted on the map referred to in section 2(c), absent an acquisition of privately owned lands or interests therein by the United States, nothing in this Act shall authorize any Federal agency or official to regulate the use or enjoyment of privately owned lands, including lands currently subject to easements held by the Marin Agricultural Land Trust, the Sonoma County Agricultural Preservation and Open Space District, and the Sonoma Land Trust, and such privately owned lands shall continue under the jurisdiction of the State and political subdivisions within which they are located.

"(B) The Secretary may permit, or lease, lands acquired in fee under this subsection. Any such permit or lease shall be consistent with the purposes of the Point Reyes National Seashore Farmland Protection Act of 1997. Notwithstanding any other provision of law, revenues derived from any such permit, or lease, may be retained by the Secretary, and such revenues shall be available, without further appropriation, for expenditure to further the goals and objectives of agricultural preservation within the boundaries of the area depicted on the map referred to in section 2(c).

"(C) Lands, and interests in lands, within the area depicted on the map referred to in section 2(c) of this Act which are owned by the State of California, or any political subdivision thereof, may be acquired only by donation or exchange.

"(4) Section 5 shall not apply with respect to lands and interests in lands acquired under this subsection.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 9 of such Act (16 U.S.C. 459c-7) is amended by adding at the end the following: "In addition to the sums authorized to be appropriated by this section before the enactment of the Point Reyes National Seashore Farmland Protection Act of 1997, there is authorized to be appropriated $30,000,000 to be used on a matching basis to acquire lands and interests in lands under section 3(d). The Federal share of the costs for acquiring land and interests in lands under section 3(d) shall be one half of the total costs of such acquisition. The non-Federal share of such acquisition costs may be in the form of property, monies, services, or in-kind contributions, fairly valued. For such purposes, any lands or interests in lands that are within the boundaries of the area depicted on the map referred to in section 2(c), that are currently held under a conservation easement by the Marin Agricultural Land Trust, the Sonoma County Agricultural Preservation and

Open Space District, the Sonoma Land Trust, or any other land protection agency or by the State of California or any political subdivision thereof shall be considered a matching contribution from non-Federal sources in an amount equal to the fair market value of such lands or interests in land, as determined by the Secretary.".

Public Law 87-657
87th Congress, S. 476
September 13, 1962

An Act

76 STAT. 538.

To establish the Point Reyes National Seashore in the State of California, and for other purposes.

California.
Point Reyes National Seashore.
Establishment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to save and preserve, for purposes of public recreation, benefit, and inspiration, a portion of the diminishing seashore of the United States that remains undeveloped, the Secretary of the Interior (hereinafter referred to as the "Secretary") is hereby authorized to take appropriate action in the public interest toward the establishment of the national seashore set forth in section 2 of this Act.

Sec. 2. (a) The area comprising that portion of the land and waters located on Point Reyes Peninsula, Marin County, California, which shall be known as the Point Reyes National Seashore, is described as follows by reference to that certain boundary map, designated NS-PR-7001, dated June 1, 1960, on file with the Director, National Park Service, Washington, District of Columbia.

Beginning at a point, not monumented, where the boundary line common to Rancho Punta de los Reyes (Sobrante) and Rancho Las Baulines meets the average high tide line of the Pacific Ocean as shown on said boundary map;

Thence southwesterly from said point 1,320 feet offshore on a prolongation of said boundary line common to Rancho Punta de los Reyes (Sobrante) and Rancho Las Baulines;

Thence in a northerly and westerly direction paralleling the average high tide line of the shore of the Pacific Ocean; along Drakes Bay, and around Point Reyes;

Thence generally northerly and around Tomales Point, offshore a distance of 1,320 feet from average high tide line;

Thence southeasterly along a line 1,320 feet offshore and parallel to the average high tide line along the west shore of Bodega Bay and Tomales Bay to the intersection of this line with a prolongation of the most northerly tangent of the boundary of Tomales Bay State Park;

Thence south 54 degrees 32 minutes west 1,320 feet along the prolongation of said tangent of Tomales Bay State Park boundary to the average high tide line on the shore of Tomales Bay;

Thence following the boundary of Tomales Bay State Park in a southerly direction to a point lying 105.4 feet north 41 degrees east of an unimproved road heading westerly and northerly from Pierce Point Road;

Thence south 41 degrees west 105.4 feet to a point on the north right-of-way of said unimproved road;

Thence southeasterly along the north right-of-way of said unimproved road and Pierce Point Road to a point at the southwest corner of Tomales Bay State Park at the junction of the Pierce Point Road and Sir Francis Drake Boulevard;

Thence due south to a point on the south right-of-way of said Sir Francis Drake Boulevard;

Thence southeasterly along said south right-of-way approximately 3,100 feet to a point;

Thence approximately south 19 degrees west approximately 300 feet;

Thence south approximately 400 feet;

Thence southwest to the most northerly corner of the Inverness watershed area;

Thence southerly and easterly along the west property line of the Inverness watershed area approximately 9,040 feet to a point near the

138

76 STAT. 539.

intersection of this property line with an unimproved road as shown on said boundary map;

Thence southerly along existing property lines that roughly follow said unimproved road to its intersection with Drakes Summit Road and to a point on the north right-of-way of Drakes Summit Road;

Thence easterly approximately 1,800 feet along the north right-of-way of said Drakes Summit Road to a point which is a property line corner at the intersection with an unimproved road to the south;

Thence southerly and easterly and then northerly, as shown approximately on said boundary map, along existing property lines to a point on the south right-of-way of the Bear Valley Road, approximately 1,800 feet southeast of its intersection with Sir Francis Drake Boulevard;

Thence easterly and southerly along said south right-of-way of Bear Valley Road to a point on a property line approximately 1,000 feet west of the intersection of Bear Valley Road and Sir Francis Drake Boulevard in the village of Olema;

Thence south approximately 1,700 feet to the northwest corner of property now owned by Helen U. and Mary R. Shafter;

Thence southwest and southeast along the west boundary of said Shafter property to the southwest corner of said Shafter property;

Thence approximately south 30 degrees east on a course approximately 1,700 feet to a point;

Thence approximately south 10 degrees east on a course to the centerline of Olema Creek;

Thence generally southeasterly up the centerline of Olema Creek to a point on the west right-of-way line of State Route Numbered 1;

Thence southeasterly along westerly right-of-way line to State Highway Numbered 1 to a point where a prolongation of the boundary line common to Rancho Punta de los Reyes (Sobrante) and Rancho Las Baulines would intersect right-of-way line of State Highway Numbered 1;

Thence southwesterly to and along said south boundary line of Rancho Punta de los Reyes (Sobrante) approximately 2,900 feet to a property corner;

Thence approximately south 38 degrees east approximately 1,500 feet to the centerline of Pine Gulch Creek;

Thence down the centerline of Pine Gulch Creek approximately 400 feet to the intersection with a side creek flowing from the west;

Thence up said side creek to its intersection with said south boundary line of Rancho Punta de los Reyes (Sobrante);

Thence southwest along said south boundary line of Rancho Punta de los Reyes to the point of beginning, containing approximately 53,000 acres. Notwithstanding the foregoing description, the Secretary is authorized to include within the Point Reyes National Seashore the entire tract of land owned by the Vedanta Society of Northern California west of the centerline of Olema Creek, in order to avoid severance of said tract.

(b) The area referred to in subsection (a) shall include also a right-of-way, to be selected by the Secretary, of not more than 400 feet in width to the aforesaid tract from the intersection of Sir Francis Drake Boulevard and Haggerty Gulch.

SEC. 2. (a) Except as provided in section 4, the Secretary is authorized to acquire, and it is the intent of Congress that he shall acquire as rapidly as appropriated funds become available for this purpose or as such acquisition can be accomplished by donation or with donated funds or by transfer, exchange, or otherwise the lands, waters, and other property, and improvements thereon and any interest therein, within the areas described in section 2 of this Act or which lie within

the boundaries of the seashore as established under section 5 of this Act (hereinafter referred to as "such area"). Any property, or interest therein, owned by a State or political subdivision thereof may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of this Act. In exercising his authority to acquire property in accordance with the provisions of this subsection, the Secretary may enter into contracts requiring the expenditure, when appropriated, of funds authorized by section 8 of this Act, but the liability of the United States under any such contract shall be contingent on the appropriation of funds sufficient to fulfill the obligations thereby incurred.

(b) The Secretary is authorized to pay for any acquisitions which he makes by purchase under this Act their fair market value, as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

(c) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within California and adjacent States, notwithstanding any other provision of law. The properties so exchanged shall be approximately equal in fair market value, provided that the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

SEC. 4. No parcel of more than five hundred acres within the zone of approximately twenty-six thousand acres depicted on map numbered NS-PR-7002, dated August 15, 1961, on file with the director, National Park Service, Washington, District of Columbia, exclusive of that land required to provide access for purposes of the national seashore, shall be acquired without the consent of the owner so long as it remains in its natural state, or is used exclusively for ranching and dairying purposes including housing directly incident thereto. The term "ranching and dairying purposes", as used herein, means such ranching and dairying, primarily for the production of food, as is presently practiced in the area.

"Ranching and dairying purposes."

In acquiring access roads within the pastoral zone, the Secretary shall give due consideration to existing ranching and dairying uses and shall not unnecessarily interfere with or damage such use.

SEC. 5. (a) As soon as practicable after the date of enactment of this Act and following the acquisition by the Secretary of an acreage in the area described in section 2 of this Act, that is in the opinion of the Secretary efficiently administrable to carry out the purposes of this Act, the Secretary shall establish Point Reyes National Seashore by the publication of notice thereof in the Federal Register.

Publication in F. R.

(b) Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 2 of this Act. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the State and to the governing body of each of the political subdivisions involved; (2) cause a copy of such notice and map to be published in one or more newspapers which circulate in each of the localities; and (3) cause a certified copy of such notice, a copy of such map, and a copy of this Act to be recorded at the registry of deeds for the county involved.

Notification of Governor, etc.

76 STAT. 541.

SEC. 6. (a) Any owner or owners (hereinafter in this subsection referred to as "owner") of improved property on the date of its acquisition by the Secretary may, as a condition to such acquisition, retain the right of use and occupancy of the improved property for noncommercial residential purposes for a term of fifty years. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

"Improved property."

(b) As used in this Act, the term "improved property" shall mean a private noncommercial dwelling, including the land on which it is situated, whose construction was begun before September 1, 1959, and structures necessary thereto (hereinafter in this subsection referred to as "dwelling"), together with such amount and locus of the property adjoining and in the same ownership as such dwelling as the Secretary designates to be reasonably necessary for the enjoyment of such dwelling for the sole purpose of noncommercial residential use and occupancy. In making such designation the Secretary shall take into account the manner of noncommercial residential use and occupancy in which the dwelling and such adjoining property has usually been enjoyed by its owner or occupant.

SEC. 7. (a) Except as otherwise provided in this Act, the property acquired by the Secretary under this Act shall be administered by the Secretary, subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and in accordance with other laws of general application relating to the national park system as defined by the Act of August 8, 1953 (67 Stat. 496), except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this Act.

16 USC 1.

16 USC 1a.

(b) The Secretary may permit hunting and fishing on lands and waters under his jurisdiction within the seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable local, State, and Federal law. The Secretary shall consult with officials of the State of California and any political subdivision thereof who have jurisdiction of hunting and fishing prior to the issuance of any such regulations, and the Secretary is authorized to enter into cooperative agreements with such officials regarding such hunting and fishing as he may deem desirable.

Appropriation.

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, except that no more than $14,000,000 shall be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of this Act.

Approved September 13, 1962.

POINT REYES NATIONAL SEASHORE

Area description.
16 USC 459c-1.

SEC. 318. (a) Section 2(a) of the Act of September 13, 1962 (76 Stat. 538) as amended (16 U.S.C. 459) is further amended as follows:

"SEC. 2. (a) The Point Reyes National Seashore shall consist of the lands, waters, and submerged lands generally depicted on the map entitled 'Boundary Map, Point Reyes National Seashore', numbered 612-80,008-E and dated May 1978.

Map, availability.

"The map referred to in this section shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and

Natural Resources of the United States Senate in writing, the Secretary may make minor revisions of the boundaries of the Point Reyes National Seashore when necessary by publication of a revised drawing or other boundary description in the Federal Register.".

(b) Section 5(a) of such Act is amended to read as follows:

Use and occupancy rights, retention. 16 USC 459c-5.

"SEC. 5. (a) The owner of improved property or of agricultural property on the date of its acquisition by the Secretary under this Act may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall select the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under this Act, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or was a leaseholder thereon immediately before its acquisition by the United States.".

Payment.

Termination and notification.

Federally-owned lands, lease.

(c) In subsection 5(b) of such Act, following "September 1, 1959," insert "or, in the case of areas added by action of the Ninety-fifth Congress, May 1, 1978,"; and at the end of the subsection, add the following new sentence: "The term 'agricultural property' as used in this Act means lands which were in regular use for, or were being converted to agricultural, ranching, or dairying purposes as of May 1, 1978, together with residential and other structures related to the above uses of the property.".

"Agricultural property."

(d) Section 5 of such Act is amended by adding the following new subsection (c) to read as follows:

Payment deferral, scheduling, and interest rate.

"(c) In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of this Act, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.".

(e) Section 8 of such Act is renumbered section 9 and the following new section is inserted after section 7:

16 USC 459c-7.

Cooperation. 16 USC 459c-6b.

"SEC. 8. The Secretary shall cooperate with the Bolinas Public Utilities District to protect and enhance the watershed values within the seashore. The Secretary may, at his or her discretion, permit the use and occupancy of lands added to the seashore by action of the Ninety-fifth Congress by the utilities district for water supply purposes, subject to such terms and conditions as the Secretary deems are consistent with the purposes of this Act.".

Land use and occupancy, terms and conditions.

American Farmland Trust

Testimony in support of H.R.1995, the "Point Reyes National Seashore Farmland Protection Act of 1997"

by
Ralph Grossi, President

Submitted to the
U.S. House of Representatives Committee on Resources
Subcommittee on National Parks and Public Lands

October 30, 1997

Mr. Chairman, American Farmland Trust appreciates this opportunity to provide your committee with our views on the merits of H.R. 1995. I am president of AFT and a California farmer whose family has been in the dairy, cattle and grain business in Marin County for over 100 years. American Farmland Trust is a national, non-profit organization with 30,000 members working to stop the loss of productive farmland and to promote farming practices that lead to a healthy environment. I submit these comments for AFT's members and the majority of farmers who care about resource stewardship.

Since our founding in 1980, American Farmland Trust has studied agriculture on the urban edge. Our most recent Farming on the Edge study (attached) shows that urban edge farmland contributes disproportionately to feeding the American consumer. We found that more than half of the value of U.S. farm production -- including more than three-quarters of domestic fruit and vegetables and more than half of dairy products -- is grown in "urban-influenced" counties, and that population growth in counties with the highest agricultural productivity is more than twice the national average. This land is of strategic value to America, is highly vulnerable to development, and should be protected.

The watershed of Tomales Bay is a good example of the strategic farmland threatened by development. H.R. 1995 is a voluntary, incentive-based approach for protecting both the natural resource values and the agricultural capability of this watershed. I believe it will prove to be a model for protecting other strategic farmland around the country.

The benefits of H.R. 1995's approach to protecting farmland are many. Farmers in the Tomales Bay watershed are, of course, producing food for the American consumer. But H.R. 1995 recognizes that these farmers are also providing other benefits to the public, such as open space, beautiful vistas, wildlife habitat and clean water. The easement acquisition approach proposed by H.R. 1995 provides an innovative, voluntary opportunity for these landowners to be compensated for protecting the critical agricultural economic base and ensure that these other values associated with this scenic coastal area are protected for all future generations.

H.R. 1995's voluntary, compensatory approach leaves farm and ranch land in private ownership. Protected lands remain on the local tax rolls, and remain a contributor to the local economy. The value of this approach to the local community should not be understated. AFT has conducted a series of Cost of Community Services Studies around the country. In every case, these studies have shown farmland provides more property tax revenue than it demands in public services, while residential development almost always requires more in services than it pays in taxes.

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H.R.1995 also provides the opportunity through the voluntary purchase of conservation easements to enlist the cooperation of farmers and other private land owners in the protection of the Tomales Bay watershed. While it is widely recognized that certain agricultural practices can be detrimental to the environment, it is less widely acknowledged that the pollution associated with residential development is often greater and is more difficult to correct.

The problem of protecting the borders of national parks is not unique to coastal California. It is facing nearly every national park, including Yellowstone, Shenandoah, the Everglades, and Yosemite. It is simply not possible for the Federal government to purchase all these lands to protect them, nor should it. The use of conservation easements is widely accepted and fiscally prudent. There are now nearly 2,000,000 acres of private land protected nationwide with conservation easements. The public-private partnership and the Federal-local partnerships being created by H.R.1995 may serve as models for other Parks across the nation.

The voluntary and compensatory approach of H.R. 1995 is growing in popularity across the country. Nineteen states and more than 40 counties -- including Marin and Sonoma -- have begun using this technique to protect land resources of regional importance. This approach dovetails with that of the 1996 Farm Bill's Farmland Protection Program, which is so popular it is oversubscribed by a factor of twenty.

I strongly encourage you to take the opportunity provided by Representative Woolsey in H.R. 1995 to create this program to protect the watershed of Tomales Bay and the Point Reyes National Seashore. The bill will protect the working agricultural landscape of coastal California, and do it in a manner that shares the responsibility of stewardship between private landowners and the public at large by fairly compensating for value received. Thank you for providing me with this opportunity to testify today, and I look forward to working with you to establish truly farmer-friendly conservation policy.

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DATE: October 29, 1997

TESTIMONY OF: David Wm. Hansen, General Manager
Sonoma County Agricultural Preservation and Open Space District

HEARING: October 30, 1997
Before the Subcommittee - National Parks & Public Lands

BILL: HR 1995

SONOMA COUNTY
AGRICULTURAL
PRESERVATION
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DISTRICT

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David Wm. Hansen
General Manager

The Sonoma County Agricultural Preservation and Open Space District is a dependent Special District formed by a 70% positive vote by the citizens of Sonoma County, California in November, 1990. The District Board of Supervisors acting Ex-Officio as the District's Board of Directors, recently passed a resolution supporting the Point Reyes Farmlands Protection Bill. Sonoma County is a million-acre County (bigger than the State of Rhode Island) located in the greater nine county San Francisco Bay Area. The County's major industry is agriculture, which generates $400,000,000 annually, in direct income.

Our District was funded and formed as a local 20-year effort to help protect the agricultural land resources of the County through the acquisition of conservation easements from willing landowners. This task, shadowed by the growing urban sprawl of the Bay Area and the sheer size of the County, has had some success in preserving 24,000 acres to date. However, this effort will not be enough to secure the full protection of our County's agricultural land resources. The District has worked diligently, with Congresswoman Woolsey and her staff, to support the concept of the Point Reyes Farmlands Protection Bill as a complimentary effort to our program.

We have worked specifically on the easement language and the local matching fund concept with the Marin Agricultural Land Trust, the Sonoma Land Trust, National Park Service and members of the local agricultural community. We have strived to assure that the proposed federal program will match and be complimented by our own successful local program.

The southwest corner of Sonoma County affected by HR 1995, principally the watershed of the Estero Americano, is a priority acquisition area for Sonoma County Agricultural Preservation and Open Space District. This area's 4,000 acres has been in agriculture for 150 years. Passage of this bill will, with the support of local landowners and our local funds, assure that it remains in agriculture in perpetuity. I convey to you the County of Sonoma's Board of Supervisors request representing the local matching fund effort, in strongly supporting the passage of HR 1995, the Point Reyes Farmlands Protection Bill.

AUG 07 1997

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1962-1997

AUG 25 1997

July 31, 1997

The Honorable Lynn C. Woolsey
439 Cannon House Office Building
Washington, DC 20515-0506

Re: HR 1995-Point Reyes National Seashore Farmland Protection Act

Dear Representative Woolsey:

As landowner in the proposed Point Reyes National Seashore Farmland Protection Act area, we are writing to support and encourage your efforts to effect passage of HR 1995, the Point Reyes National Seashore Farmland Protection Act . As you know, Audubon Canyon Ranch (ACR) has a thirty-five year history of preserving and protecting wildlife and habitat through sanctuary lands in Marin and Sonoma Counties, California. ACR owns nearly 450 acres (collectively known as Cypress Grove Preserve) adjacent to Tomales Bay and within the watershed slated for protection in the proposed Point Reyes National Seashore Farmland Protection Act. Although Tomales Bay is almost completely included within the current boundaries of the Point Reyes National Seashore (PRNS) and the Golden Gate National Recreation Area (GGNRA), environmental protection of the watershed through purchase of development rights and appropriate agricultural or conservation easements is a crucial measure in protecting the estuarine birds and other natural resources of Tomales Bay. Audubon Canyon Ranch conducts ongoing biological monitoring programs on Tomales Bay and we would like to share some of our findings with you.

Waterbirds

Tomales Bay differs from other generally shallower coastal estuaries and lagoons along the Pacific Coast in having a much larger area of open water at low tide. Consequently, the bay provides more waterbird habitat through the tidal cycle and supports more waterbirds than most other coastal estuaries. Research by Audubon Canyon Ranch has generated eight years of baseline data on the value of Tomales Bay to waterbirds. Numbers of wintering loons, grebes, ducks, cormorants, geese, and other open water birds on Tomales Bay total between 22,000 and 25,000 birds. Tomales Bay is particularly important for some species. For example, Tomales Bay may support a fourth of California's coastal population of Bufflehead, based on comparisons with U. S. Fish and Wildlife Service (USFWS) Midwinter Waterfowl Survey data. In addition, such comparisons suggest that Tomales Bay may be the most important wintering area for this species. south of the Columbia River with the exception of San Francisco Bay.

4900 Highway One • Stinson Beach, California 94970 • 415-868-9244 • FAX 415-868-1699

Tomales Bay also supports several uncommon to rare wintering species such as Black Scoters, Red-necked Grebes, Oldsquaws, and Harlequin Ducks. One possible reason Tomales Bay supports large waterbird populations is its importance as a major spawning area for millions of Pacific Herring, which provide important food for wintering waterbirds. Suitable estuarine conditions needed for spawning and protection of eel grass spawning areas require an adequate supply of freshwater and control of sediments transported into the bay from the watershed. The potential for enhanced sediment control and water quality protection offered by the Point Reyes National Seashore Farmland Protection Act could be crucial for the protection of some coastal waterbird populations.

Shorebirds

Tomales Bay provides important habitat for migrating and wintering shorebirds. Since 1989, Audubon Canyon Ranch has conducted research on shorebird populations on Tomales Bay. Numbers of wintering shorebirds on the bay reach 17,000 to 20,000 -- approximately one third of the shorebirds that winter along the outer coast north of San Francisco to Bodega Bay. Little other shorebird habitat is available northward to Humboldt Bay. Observations of winter flock movements suggest that shorebird populations on Tomales Bay depend almost exclusively on Tomales Bay habitats rather than commuting to other estuaries. Shorebirds concentrate on vast tide flats of the Walker Creek and Lagunitas Creek deltas. The protection of these tidal areas as feeding habitat for shorebirds requires the protection of water quality and control of erosion and sediments. Such protection would be an important result of your Point Reyes National Seashore Farmland Protection Act legislation.

Herons and Egrets

Audubon Canyon Ranch has been monitoring the status of herons and egrets in the greater San Francisco Bay region Since 1990. Tomales Bay supports three Great Blue Heron and Great Egret nesting colonies, two of which rank within the ten largest colonies in the 9-counties area surrounding San Francisco Bay. The quality of their "protected" estuarine feeding areas on Tomales Bay is dependent on watershed enhancement and protection within the proposed Point Reyes National Seashore Farmland Protection Act area.

Additional Important Natural Resources

Watershed and environmental protection on the east side of Tomales Bay is vital to ensure the long-term stability of other natural resources within the PRNS and GGNRA. Federally listed Coho Salmon need protected stream beds and adequate supplies of fresh water for spawning, and healthy estuarine zones to support out-migrating smolts. In addition, significant populations of two rare (listed C2 by USFWS) salt marsh plants, Point Reyes Bird's Beak (*Cordylanthus maritimus palustris*) and Humboldt Bay Owl's Clover (*Castelleja ambigua humboldtensis*), require undisturbed estuarine marshes with stable supplies of fresh water for germination.

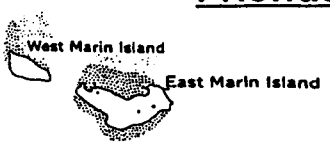
In summary, the protection of natural resources of Tomales Bay depend on strong measures to control sediment and other sources of pollution and provide adequate supplies of fresh water. HR 1995, the Point Reyes National Seashore Farmland Protection Act, is an important component in the environmental protection of the Tomales Bay watershed. Protection of the Tomales Bay watershed is essential in protecting the biological diversity of Tomales Bay, Point Reyes National Seashore and Golden Gate National Recreation Area as well as the wildlife and preserve lands of Audubon Canyon Ranch. Please contact us if we can be of assistance or if you have questions regarding biological resources in Tomales Bay.

Sincerely yours,

Maurice A. "Skip" Schwartz
Executive Director
Audubon Canyon Ranch

cc: Don Neubacher, Superintendent PRNS
John Dell 'Osso
Bob Berner, MALT

Friends of the Marin Islands



May 7, 1996

Congresswoman Lynn Woolsey
Suite 140
1050 Northgate Drive
San Rafael, California 94903

Dear Congresswoman,

After speaking with John Dell'Osso at the Seashore and your assistant, Grant Davis, at length, I would like to request that the "report language" to your proposed expansion bill to the Point Reyes National Seashore specifically EXCLUDE the intent to either of the following:

It is not the intent of this bill to prevent either:

A) The rebuilding of any improvements, existing as of the effective date of this bill, that are subsequently damaged or destroyed, or

B) The construction of additional improvements that are approved by the appropriate local agencies such as the City or County Planning and/or Building Departments.

With this additional clarification, and a copy of the same for my files, I would entirely support your bill.

Respectfully,

Richard D. Spight

c.c. Jim Byers

1220 Brickyard Cove Road, Suite 200 • Point Richmond, CA 94801
415 236-3700 • Fax 415 236-3799

HR1135

Golden Gate National Recreation Area and Point Reyes National Seashore

ADVISORY COMMISSION

RECEIVED
Point Reyes National Seashore
MAY 23 '97
SUPT.

May [illegible]

OPTIONAL FORM 99 (7-90)
FAX TRANSMITTAL # of pages ▶
To [illegible] From
Dept./Agency Phone #
Fax # Fax #
NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

MAINT
CONTRACTING
PERSONNEL
BUDGET
CENTRAL FILES

Honorable Lynn Woolsey
Member of Congress
House of Representatives
Washington, D.C. 20515

Re: HR1135 Point Reyes National Seashore Farmland Protection Act of 1997

Dear Congresswoman Woolsey:

On May 17, 1997 this Advisory Commission for the Golden Gate National Recreation Area and Point Reyes National Seashore voted unanimously in support of HR1135. This action was taken during the Commission's regular meeting, held at Point Reyes Station, and is consistent with the position taken by this Commission on previous occasions.

Our vote may be read as enthusiastic support for maintaining the environmental values of Tomales Bay, as well as preservation of the agricultural pursuits in West Marin. We are cognizant that all of the environmental groups, and all but one of the business or agricultural organizations, and all of the political entities in or near the affected areas, have also taken positions in support of your bill.

Our Commission thanks you, Congresswoman Woolsey, for your legislative efforts to retain the scenery and the commerce in West Marin adjoining our existing National Parks. Please let us know if we may be of assistance to you in your endeavor.

Sincerely,

Richard Bartke

RHB:kf

Building 201, Fort Mason, San Francisco, CA 94123

Greenbelt Alliance
PEOPLE FOR OPEN SPACE

August 5, 1997

The Honorable Lynn Woolsey
U. S. House of Representatives
Washington, D.C. 20515

Dear Representative Woolsey,

I am pleased to write you on behalf of Greenbelt Alliance's Executive Committee, which has voted to endorse the Point Reyes National Seashore Farmland Protection Act.

We consider the Point Reyes area to be one of the crown jewels in the Bay Area's Greenbelt of open lands. In fact, we share your view that Point Reyes and Tomales Bay together make up one of the most beautiful and agriculturally productive landscapes in California.

Like you, we have tracked development threats on the east side of Tomales Bay, and know the importance of using strong planning and easement purchase programs to sustain the area's agricultural heritage. We're pleased to support your legislation, which provides additional important tools to bolster the conservation efforts in West Marin.

Thank you for carrying this legislation, and please have your staff keep us informed about its progress through Congress and, hopefully, to the President's desk.

Best wishes,

Jim Sayer
Executive Director

cc: Supervisor Annette Rose
Ellen Straus

MAIN OFFICE • 116 New Montgomery Suite 640, San Francisco CA 94105 • (415) 543-4291
SOUTH BAY OFFICE • 1922 The Alameda Suite 213, San Jose CA 95126 • (408) 983-0539
NORTH BAY OFFICE • 520 Mendocino Avenue Suite 200, Santa Rosa CA 95401 • (707) 575-3661
EAST BAY OFFICE • 500 Ygnacio Valley Road Suite 250, Walnut Creek CA 94596 • (510) 932-7776

INVERNESS ASSOCIATION
BOX 382
INVERNESS, MARIN COUNTY
CALIFORNIA 94937

INCORPORATED 1930

June 27, 1996

Congresswoman Lynn C. Woolsey
1050 Northgate Drive, Suite 140
San Rafael, CA 94903

Dear Congresswoman Woolsey:

At our Board of Directors' meeting last evening, June 26, we reiterated very strongly our support for the Pt. Reyes National Seashore Expansion Bill. This is an expression not only of our Board, but of our membership of 650 people.

While we realize that the Gulf of the Farallones National Marine Sanctuary provides protection for the waters of Tomales and Bodega Bays, as well as the Esteros Americano and de San Antonio, there is no long-term protection for agriculture and mari-culture, both so important to the economic stability of Marin and Sonoma counties.

The Tomales Bay/Bodega Bay Watershed Boundary Study of July 1955 explains in detail the advantages of including these lands within the boundaries of the Pt. Reyes National Seashore. If this addition could take place, permanent protection would be guaranteed for both bays and the esteros, and productive agriculture could continue indefinitely. Legislation such as your Bill is, in our opinion, the only way to preserve the pastoral nature of the land and to conserve the great diversity of the ecological resources.

Yours very truly

Corwin Mocine

Corwin Mocine, President
Inverness Association
Inverness Foundation

cc: Senator Diane Feinstein
Senator Barbara Boxer
PRNS Supt. Don Neubacher

kh

INVERNESS ASSOCIATION
BOX 382
INVERNESS, MARIN COUNTY
CALIFORNIA 94937
INCORPORATED 1930

Mar. 31, 1997

APR 04 1997

The Honorable Lynn Woolsey
U. S. House of Representatives
439 Cannon House Office Building
Washington, D. C. 20515

Dear Representative Woolsey:

On behalf of the almost 600 members of this Association, I want to reiterate our overwhelming support for your legislation, the Point Reyes National Seashore Farmland Protection Act. This bill allows the National Park Service to acquire conservation easements on lands adjacent to Tomales and Bodega Bays.

This legislation, along wih your efforts to secure adequate funding, would preserve agriculture, support our local mariculture industry, and enhance the value of our national treasure, the Point Reyes National Seashore. It would also provide a national model for public/private partnerships that simultaneously help local agriculture and protect the natural resources of the Seashore. These benefits are provided through an innovative financing mechanism which minimizes taxpayer costs.

This proposed legislation has two key features that could set a pattern of protection of agricultural land and enhancement of national parks. First, it provides for acquisition of conseration easements rather than outright land purchase. This approach has the virtue of maintaining existing free enterprise while substantially reducing -- by more than half -- the public cost of preserving the open space adjacent to our national parks. Second, it allows the National Park Service to acquire conservation easements only from willing landowners, thus protecting the sanctity of private property rights.

As an organization that represents the majority of the people of the Point Reyes peninsula, we wholeheartedly want to work with you in passing this legislation during the present Congress.

Sincerely yours

Stanley F. Gillmar, President
Inverness Association
Inverness Foundation

August 7, 1997

Representative Don Young
U.S. House of Representatives
Washington, D.C. 20515

Re: Support For H.R. 1995, The Point Reyes National Seashore Farmland Protection Act

Dear Congressman Young:

The League of Women Voters of the United States joins the League of Women Voters of California in supporting H.R. 1995 which would provide for the preservation of agricultural lands in Marin and Sonoma Counties in California throughthe purchase of conservation easements. We request that you schedule a hearing by the Subcommittee on National Parks and Public Lands at your earliest convenience which we hope can occur in September or October of this year.

This bill has national significance because it will continue to preserve historic agricultural lands near the federal Point Reyes National Seashore. The region is visited by about 2.5 million people annually and is a national treasure.

The League espouses the stewardship of natural resources and the protection of farmland where this is sustainable. As you know, the fee title for the purchased easements would ensure that the lands remained in private ownership and at the same time preserve the farmlands for agricultural use in perpetuity. The act's passage would protect the considerable federal investment in the Point Reyes National Seashore form incompatible development.

We urge your quick action in support of H.R. 1995. Thank you for this opportunity to express the League's point of view.

Sincerely,

Becky Cain
President

1730 M STREET, NW, WASHINGTON, DC 20036-4508
202-429-1965 Fax 202-429-0854
World Wide Web: http://www.lwv.org/~lwvus/

JUN 19 1997

THE LEAGUE OF WOMEN VOTERS OF CALIFORNIA

926 J Street, Suite 515, Sacramento, CA 95814 (916) 442-7215 / Fax (916) 442-7362

TO: Members of the California Delegation:
FROM: League of Women Voters of California
President, Fran Packard
President Elect, Karyn Gill

The League of Women Voters of California, on behalf of the Leagues of Marin County and Sonoma County, urge you to support the proposed Point Reyes National Seashore Farmland Protection Act which would provide for the preservation of agricultural lands in Sonoma and Marin Counties. We request also that you ask for a hearing to be scheduled by the Sub Committee on National Parks and Public Lands, chaired by Representative Jim Hanson (Utah).

The purpose of the Act is to protect pastoral farmlands adjacent to the federal Point Reyes National Seashore which is visited by about 2.5 million people annually. The Act would provide funding for acquisition of development rights from willing landowners which , if purchased, would preserve these lands in perpetuity for agricultural use. The easements would be monitored and managed by non profits already established in the area for this purpose: the Marin Agricultural Land Trust (M.A.L.T.), The Sonoma County Agricultural Preservation and Open Space District, and the Sonoma Land Trust. The purchased lands would remain in private ownership and help maintain the substantial Federal investment in the Point Reyes National Seashore by protecting the natural area from incompatible development. As you know, agriculture is a viable industry in both Marin and Sonoma Counties and much of the Bay area's milk is produced on these farms and ranchlands.

The Point Reyes National Seashore is a national treasure. Protecting farmlands in perpetuity--along the boundary of the seashore--would contribute to the preservation of the historic agricultural lands uses in this region. The cost of easements is estimated to be about 40% of the full fee purchase price of the land. The Act would cover 38,000 acres, 4000 of these in Sonoma and the rest in Marin County including the 11,000 acres already under easement protection through M.A.L.T.

The League supports the stewardship of natural resources and the protection of farmland. We urge your strong endorsement of the Farmland Protection Act, co-authored by Congressmembers Woolsey and Gilcrest.

Thank you for this opportunity to express our point of view.

MARIN CONSERVATION LEAGUE
55 Mitchell Blvd., Suite 21 • San Rafael, CA 94903
Voice (415) 472-6170 • Fax (415) 472-1404
e-mail: mcl@nbn.com • web site: www.nbn.com/mcl

April 11, 1997

Supervisor Harry Moore, President and
Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

RE: The Point Reyes Farmland Protection Act -- Bill H.R. 1135

Dear President Moore and Supervisors:

For the past few years Marin Conservation League (MCL) has supported legislation to protect the Point Reyes National Seashore, Tomales and Bodega Bays. We have even sent a representative to testify in Washington, D.C. before the Natural Resource Committee's subcommittee on National Parks, Forests and Public Lands in support of protecting these resources.

The current bill, H.R. 1135 The Point Reyes Farmland Protection Act, introduced by Representatives Lynn Woolsey and Wayne Gilchrest on March 19, 1997, has all the components that we believe will protect these resources and, at the same time, allow private ranching and farming to continue.

The establishment of the Point Reyes National Seashore by the congress of the United States set aside some resources of incomparable importance to the people of this country. We believe that H.R. 1135 will protect the Point Reyes National Seashore from incompatible development through federal legislation that would authorize and fund the acquisition of conservation easements on approximately 38,000 acres of agricultural land on the east side of Tomales Bay and the Marin coast.

Because of its location overlooking the Point Reyes Peninsula and its proximity to the six million person population of the San Francisco Metropolitan Area, this 38,000 acre area is threatened with development that would irrevocably undermine the integrity of Point Reyes National Seashore and adversely affect the character and quality of Tomales Bay, an important component of the Gulf of the Farallones National Marine Sanctuary and the most pristine estuary in the United States.

MARIN CONSERVATION LEAGUE

In addition, persistently escalating land values threaten the agricultural land uses which are crucial to the character of the park and region.

MCL has strongly supported the preservation of agriculture in Marin County. Our third and fourth generation ranchers are an important part of not only our heritage, our character, but our economy as well. As you know, the alliance between agriculture and environment is precious to us and somewhat unique to our area. We guard it well.

We believe the Point Reyes Farmland Protection Act will preserve historic agricultural lands, protect the watershed of Tomales and Bodega Bays, create a model public/private partnership, protect the public investment in Point Reyes National Seashore and maintain private property rights.

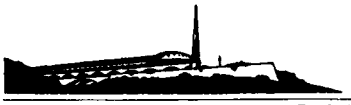
We urge you to support this important piece of protective legislation.

Sincerely,

Priscilla Bull

Priscilla Bull
President

EXCOMM ACTION



ADMINISTRATION BUILDING
3501 CIVIC CENTER DR., SUITE 329
SAN RAFAEL, CALIFORNIA 94903-4193
TELEPHONE (415) 499-7331
FAX (415) 499-3645
TDD (415) 499-6172

THE BOARD OF SUPERVISORS OF MARIN COUNTY

April 30, 1997

The Honorable Don Young
Chairman of House Resources
Room 1324 LHOB
Washington, D. C. 20515

Dear Representative Young

On behalf of the Board of Supervisors of Marin County, California, I am writing to express our strong support of HR 1135, The Point Reyes National Seashore Farmland Protection Act. Our Board reviewed the bill at our April 15th meeting and voted unanimously to endorse this legislation.

Agriculture is a critical part of Marin County's economy, environmental quality and basic chafacter. The primary purpose of this legislation is to help preserve agriculture by offering landowners the voluntary option of selling conservation easements while providing important protection for our national treasure, the Point Reyes National Seashore. Another unique aspect of this Bill will be to keep the properties that participate in the program on the public tax roles, protecting the tax base for our schools.

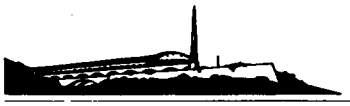
This legislation will not reduce private property rights nor impose regulations on those landowners who do not choose to participate in the program. We particularly appreciate the opportunity for a public, private partnership that will allow the Marin Agricultural Land Trust, whose track record in preserving agriculture through the purchase of conservation easements has the respect of the entire community, to negotiate and monitor the easements

We urge you to hold hearings in your committee as soon as possible. It is important to maintain the momentum that has been building for this precedent setting legislation in our County. We look forward to hearing of the future success of this Bill and offer our Board's full willingness to assist your office as it goes through the hearing process.

Sincerely,

Harry Moore
Chairman, Marin County Board of Supervisors

VICE-CHAIR		2ND VICE-CHAIR		CHAIR		CLERK
JOHN KRESS	HAROLD C. BROWN	ANNETTE ROSE	STEVE KINSEY	HARRY J. MOORE	MARTIN J. NICHOLS
SAN RAFAEL	SAN ANSELMO	SAUSALITO	SAN GERONIMO	NOVATO	REGULAR MEETING
1ST DISTRICT	2ND DISTRICT	3RD DISTRICT	4TH DISTRICT	5TH DISTRICT	TUESDAY, 9 A.M.



ADMINISTRATION BUILDING
3501 CIVIC CENTER DR., SUITE 329
SAN RAFAEL, CALIFORNIA 94903-4193
TELEPHONE (415) 499-7331
FAX (415) 499-3645
TDD (415) 499-6172

THE BOARD OF SUPERVISORS OF MARIN COUNTY

April 9, 1997

Dear Fellow Supervisors,

Marin County has long been a national leader in local efforts to preserve its agricultural land. In keeping with this tradition I am urging you to join me in support of Congresswoman Lynn Woolsey's Point Reyes Seashore Farmland Protection Act.

Agriculture is a critical part of the County's economy, environmental quality and basic character. It makes up 40% of its land area and is responsible for making Marin such a desirable place to live.

The purpose of this legislation is to help preserve agriculture by providing landowners the voluntary option of selling conservation easements. It provides a financial alternative to the development or sale of farmland through the purchase of conservation easements, a program which has played an important role in preserving Marin's family farms for the past 15 years.

The bill has been written so that it will not effect private property rights or impose any restrictions or regulations on landowners who do not chose to participate in the program. The purpose of the boundary is to define which landowners will be eligible to sell an easement on their land. Private land within its boundaries will not be subject to Federal regulation.

This legislation will provide the opportunity for easements within the boundary to be negotiated and monitored, in Marin, by the Marin Agricultural Land Trust. The easements will be monitored in the same manner as the current Malt easements and will not give the public any right of access to private land, and will specifically permit uses such as hunting and fishing that are traditional on these lands.

The current legislation increases the initial authorization of funds from 15 million to 30 million dollars. Thirty million dollars is not necessarily the total amount that would be required to purchase all the conservation easements within the Farmland Protection Area. But like the historic pattern of appropriation in the Pt. Reyes National Seashore the authorized amount may increase over time as is necessary to accomplish the purposes of the legislation.

Agricultural land is a non-renewable resource. Once it is gone it is gone forever. This legislation offers one more financial option to assist landowners within the boundary to remain in agriculture and preserve that resource. I appreciate your consideration and support of this bill.

Sincerely,

Steve Kinsey

Steve Kinsey

ADMINISTRATION BUILDING
3501 CIVIC CENTER DR., SUITE 329
SAN RAFAEL, CALIFORNIA 94903-4193
TELEPHONE (415) 499-7331
FAX (415) 499-3645
TDD (415) 499-6172

THE BOARD OF SUPERVISORS OF MARIN COUNTY

April 18, 1997

The Honorable Lynn Woolsey
439 Cannon House Office Building
Washington, D.C. 20515

Dear Congresswoman Woolsey:

On behalf of the Board of Supervisors, I am writing to express our strong support of HR 1135, The Point Reyes National Seashore Farmland Protection Act. Our Board reviewed the bill at our meeting on April 15, 1997, and voted unanimously to endorse this legislation.

Agriculture is a critical part of Marin County's economy, environmental quality and basic character. The primary purpose of this legislation is to help preserve agriculture by offering landowners the voluntary option of selling conservation easements while providing important protection for our national treasure, the Point Reyes National Seashore. Another unique aspect of this Bill will be to keep the properties that participate in the program on the public tax roles, protecting the tax base for our schools.

This legislation will not reduce private property rights nor impose regulations on those landowners who do not choose to participate in the program. We particularly appreciate the opportunity for a public, private partnership that will allow the Marin Agricultural Land Trust, whose track record in preserving agriculture through the purchase of conservation easements has the respect of the entire community, to negotiate and monitor the easements

We will be continuing to listen to and work with all Marin residents and landowners within the proposed boundary to insure that they have an accurate understanding of this legislation. We will keep you informed of any information or possible modifications that arise out of our communications that might help to strengthen your bill.

Thank you for your leadership and dedication to the goals we all share for our community. We look forward to hearing of the future success of this Bill and offer our Board's full willingness to assist your office as it goes through the hearing process.

Sincerely,

HARRY J. MOORE
Chair

HJM:ds

RESOLUTION NO. 97-023
DATED: May 29, 1997

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA COUNTY OPEN SPACE AUTHORITY, COUNTY OF SONOMA, STATE OF CALIFORNIA, SUPPORTING THE POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT

WHEREAS, the lands surrounding the Estero Americano and Tomales Bay constitute highly scenic valuable natural resource and productive agricultural lands which should be preserved in that state in perpetuity; and

WHEREAS, the Sonoma County Agricultural Preservation and Open Space District Acquisition Plan, Authority Expenditure Plan and Sonoma County General Plan recognize this area as a valuable resource to protect; and

WHEREAS, Congresswoman Lynn Woolsey has introduced the Point Reyes National Seashore Farmland Protection Act to protect this area through the acquisition of Agricultural Conservation Easements from willing sellers; and

WHEREAS, such Act will at a minimum, augment the Sonoma County Agricultural Preservation and Open Space District's funding for such acquisition purposes in the same area; and

THEREFORE BE IT RESOLVED, that this Board of Directors hereby supports and endorses the Point Reyes National Seashore Farmland Protection Act; and

BE IT FURTHER RESOLVED, that this Board of Directors directs its Chairman to convey this support to Congresswoman Woolsey and to the Sonoma County Agricultural Preservation and Open Space District's Board of Directors requesting support for the Act.

DIRECTORS:

ALYS: Abstain TREVIÑO: Aye ANDERSON: No

GILLEN: Aye COOKE: Aye

AYES: 3 NOES: 1 ABSTAIN: 1 ABSENT: 0

SO ORDERED.

THE OCEANA MARIN ASSOCIATION
A NON-PROFIT HOMEOWNER'S ASSOCIATION
P.O. BOX 65 DILLON BEACH, CA 94929

June 25, 1996

Representative Lynn Woolsey
ATTN: Grant Davis
1050 Northgate Drive, Suite 140
San Rafael, CA 94903

RE: Point Reyes National Seashore Farm Land Protection Act

Dear Representative Woolsey:

The Oceana Marin Association consists of the owners of 217 parcels of property in the Oceana Marin Subdivision in Dillon Beach, Marin County.

The Board of Directors unanimously approved a resolution supporting the Representative's efforts in protecting farm lands on the east side of Tomales Bay. We live here because we love it, and we do not wish to see this area paved over with freeways and shopping malls!

Sincerely,

Sullivan Cooper
Sullivan Cooper, President
Oceana Marin Association
PO Box 65
Dillon Beach, CA 94929

Jane F. Miller
Jane F. Miller, Secretary/Treasurer

PEOPLE FOR A GOLDEN GATE NATIONAL RECREATION AREA
3627 Clement Street • San Francisco, Calif. 94121 • (415) 752-2777

April 2, 1997

Congresswoman Lynn Woolsey
House of Representatives
Washington, D.C. 20515

APR

Dear Lynn:

We are so pleased that you have introduced H.R. 1135 to protect the parklands of Point Reyes National Seashore and the Golden Gate National Recreation Area and their surrounding natural habitat and farmland. You are continuing a strong, happy and successful effort that began more than forty years ago, which has preserved so much of the scenic vistas and traditional activities of western Marin County, for the pleasure of its residents and for the well-being of all the nation.

Please call upon us whenever we may be of assistance with the passage of the legislation.

Best personal regards,

Edgar Wayburn, M.D.
Chairman

Amy Meyer
Co-Chairman

October 8, 1997

SONOMA COUNTY
AGRICULTURAL
PRESERVATION
& OPEN SPACE
DISTRICT

747 Mendocino Avenue
Suite 100
Santa Rosa, CA
95401-4850
(707) 524-7360
Fax: (707) 524-7370

David Wm. Hansen
General Manager

Honorable Congresswoman Lynn Woolsey
Congress of the United States
House of Representatives
Washington, D.C. 20515-0506

SUBJECT: H.R. 1995 - Point Reyes National Seashore Farmland Protection

Dear Congresswoman Woolsey:

I understand that Congress is now prepared to proceed with hearings on your Farmlands Protection Act, now H.R. 1995.

This letter is a follow-up to my previous letter to you on July 10, 1997 indicating that the Sonoma County Board of Supervisors, sitting as the Board of Directors of the Sonoma County Agricultural Preservation and Open Space District, supported the Farmlands Protection Act by resolution.

While only a limited portion of the project is within Sonoma County, it represents a vital agricultural and natural resource area. The history of agriculture in the Estero Americano dates back to the earliest days of settlement by both Native American cultures and the European residents of this area. The scenic beauty of this rolling landscape has remained nearly unchanged since those earlier days, however is now threatened by residential development which could diminish this open space resource.

Passage of H.R. 1995 would complement and extend our own agricultural preservation efforts in this County. Please convey to your colleagues the local Sonoma County support for passage of this worthy bill.

Sincerely yours,

James L. Harberson
Chairman, Sonoma County Board of Supervisors
President, Sonoma County Agricultural Preservation and Open Space District

c: Board of Directors

SONOMA COUNTY
AGRICULTURAL
PRESERVATION
& OPEN SPACE
DISTRICT

747 Mendocino Avenue
Suite 100
Santa Rosa, CA
95401-4850
(707) 524-7360
Fax: (707) 524-7370

David Wm. Hansen
General Manager

June 23, 1997

env. pt. reyes.
10028

Lynn C. Woolsey, Congresswoman
Congress of the United States
House of Representatives
Washington, D.C. 20515-0506

SUBJECT: Point Reyes National Seashore Farmland Protection Act

Dear Honorable Congresswoman Woolsey:

On June 10, 1997, the Board of Supervisors of the County of Sonoma acting as the Board of Directors of the Sonoma County Agricultural Preservation and Open Space District, voted to approve the attached resolution supporting the Point Reyes National Seashore Farmlands Protection Act.

The District is envisioned as a strong local partner supporting this legislation and committed to utilize our funding resources to match federal dollars allocated.

We support your efforts to protect the unique scenic and agricultural resources of West Sonoma and Marin Counties.

Sincerely,

James L. Harberson, President
Board of Directors

c: President Bill Clinton
The Honorable Don Young
The Honorable James V. Hansen

JLH:cvv
preyes.ltr

THE WITHIN INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.
ATTEST: June 10, 1997
STEVE T. LEWIS, County Clerk & ex-officio Clerk of the Board of Directors of the Sonoma County Agricultural Preservation and Open Space District
By: _____ Deputy Clerk

#1

RESOLUTION NO. 97-0768
DATED: June 10, 1997

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT, COUNTY OF SONOMA, STATE OF CALIFORNIA, SUPPORTING THE PROPOSED POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT

WHEREAS, the lands surrounding the Estero Americano and Tomales Bay constitute highly scenic valuable natural resource and productive agricultural lands which should be preserved in that state in perpetuity; and

WHEREAS, the Sonoma County Agricultural Preservation and Open Space District Acquisition Plan, Authority Expenditure Plan and Sonoma County General Plan recognize this area as a valuable resource to protect; and

WHEREAS, Congresswoman Lynn Woolsey has introduced the Point Reyes National Seashore Farmland Protection Act to protect this area through the acquisition of Agricultural Conservation Easements from willing sellers; and

WHEREAS, such Act will at a minimum, augment the Sonoma County Agricultural Preservation and Open Space District's funding for such acquisition purposes in the same area; and

THEREFORE BE IT RESOLVED, that this Board of Directors hereby supports and endorses the proposed Point Reyes National Seashore Farmland Protection Act; and

BE IT FURTHER RESOLVED, that this Board of Directors directs its Chairman to convey this support to Congresswoman Woolsey for the proposed Act.

DIRECTORS:

CALE: aye **SMITH:** aye **KELLEY:** no

REILLY: aye **HARBERSON:** aye

AYES: 4 **NOES:** 1 **ABSENT:** _____ **ABSTAIN:** _____

SO ORDERED.

ptsres.bod

June 2, 1997

Lynn C. Woolsey, Congresswoman
Congress of the United States
House of Representatives
Washington, D.C. 20515-0506

SUBJECT: Point Reyes National Seashore Farmland Protection Act

LYNN

Dear Honorable Congresswoman Woolsey:

SONOMA COUNTY
AGRICULTURAL
PRESERVATION
& OPEN SPACE
DISTRICT

747 Mendocino Avenue
Suite 100
Santa Rosa, CA
95401-4850
(707) 524-7360
Fax: (707) 524-7370

David Wm. Hansen
General Manager

I am pleased to report that the Board of Directors of the Sonoma County Open Space Authority endorsed a resolution supporting, by a 3-1-1 vote, your proposed Farmlands Protection Act at their meeting on May 29, 1997.

I have enclosed a copy of the resolution of support. The negative vote and abstention were cast principally because of the Sonoma Farm Bureau's absence at the meeting and the need for more information as to why they are opposed to the legislation. The dissenting parties felt that the Authority's endorsement at this time may create a negative response toward the District.

I anticipate that the District Board of Directors (Board of Supervisors) will be requested to support a similar resolution at their meeting of June 10, 1997 at 8:30 a.m. I will be contacting them individually on the subject before that meeting. In addition, I plan on discussing our proposed endorsements with our local Farm Bureau representatives as well, and have already contacted Judy James in this regard.

Grant Davis has informed me that you may be available this week to discuss the legislation with District Board members. I have faxed our draft Board agenda item to Grant at your San Rafael office.

Sincerest best wishes,

David Wm. Hansen
General Manager
SCAPOSD

c: Board of Directors
Open Space Authority Board Members
Grant Davis (via fax)
Open Space Advisory Committee Members

DWHcvv
woolsey.ltr

RESOLUTION NO. 97-023
DATED: May 29, 1997

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA COUNTY OPEN SPACE AUTHORITY, COUNTY OF SONOMA, STATE OF CALIFORNIA, SUPPORTING THE POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT

WHEREAS, the lands surrounding the Estero Americano and Tomales Bay constitute highly scenic valuable natural resource and productive agricultural lands which should be preserved in that state in perpetuity; and

WHEREAS, the Sonoma County Agricultural Preservation and Open Space District Acquisition Plan, Authority Expenditure Plan and Sonoma County General Plan recognize this area as a valuable resource to protect; and

WHEREAS, Congresswoman Lynn Woolsey has introduced the Point Reyes National Seashore Farmland Protection Act to protect this area through the acquisition of Agricultural Conservation Easements from willing sellers; and

WHEREAS, such Act will at a minimum, augment the Sonoma County Agricultural Preservation and Open Space District's funding for such acquisition purposes in the same area; and

THEREFORE BE IT RESOLVED, that this Board of Directors hereby supports and endorses the Point Reyes National Seashore Farmland Protection Act; and

BE IT FURTHER RESOLVED, that this Board of Directors directs its Chairman to convey this support to Congresswoman Woolsey and to the Sonoma County Agricultural Preservation and Open Space District's Board of Directors requesting support for the Act.

DIRECTORS:

ALYS: Abstain **TREVIÑO:** Aye **ANDERSON:** No

GILLEN: Aye **COOKE:** Aye

AYES: 3 **NOES:** 1 **ABSTAIN:** 1 **ABSENT:** 0

SO ORDERED.

sutmay7a.sgn

JUN 13 1997
JUN 11 1997

TOMALES BAY ADVISORY COMMITTEE

6/10/97

Congresswoman Lynn Woolsey
1101 College Ave., Ste. 200
Santa Rosa, CA 95404

Dear Congresswoman Woolsey,

The Tomales Bay Advisory Committee was formed in 1989 by State Senator Milton Marks for the purpose of protecting Tomales Bay and its watershed by providing a forum for the sharing of information and promoting cooperation amongst agencies and organizations. Tomales Bay has, at least in scientific circles, earned an international reputation because of its relative pristine condition. During recent years, the Committee has studied and commented on a number of different issues, but in the minds of many of the members, your Point Reyes National Seashore Farmland Protection Act is one of the most important issues affecting the welfare of Tomales Bay.

On May 28, 1997 the Tomales Bay Advisory voted (Yes-14; No-0; Abstain-5) to support your Point Reyes Farmland Protection Bill, as currently written. The Committee took this strong vote in favor of the Bill because its members recognize the importance of a continued agricultural industry in the watershed for insuring the future health of Tomales Bay.

We wish you luck with this legislation and invite you to call on us if we can be of further assistance.

Sincerely,

Richard Plant

Richard Plant

cc. Bob Berner
Don Neubacher

BOX 684 INVERNESS CA 94937

THE TRUST FOR PUBLIC LAND

Conserving Land for People

November 16, 1995

The Honorable Lynn Woolsey
439 CHOB
Washington, DC 20515-0506

Dear Congresswoman Woolsey,

I am writing to alert you to the Trust for Public Land's strong support for your good efforts to protect the irreplaceable natural resources and agricultural character of the Tomales Bay area and to advise you of the positive effects those efforts would have on the work of my organization.

As you know, Tomales and Bodega Bays comprise a resource area of spectacular scenic beauty, profound natural significance and both historic and current importance to agriculture in the region. Recognizing the crucial importance of these resources and the threats of inconsistent land uses they have faced in recent years, the Trust for Public Land has worked with community leaders, federal agencies, and willing-seller land owners in West Marin to preserve over 5,000 acres including a number of working ranches that remain in production today. Each of these public interest, willing-seller real estate transactions has fit into the context of the larger partnership effort involving federal, state and local governments, private landowners and other groups who share a common concern for this landscape and its resources.

As you also know, TPL is currently working to forestall the threat of homesite development at Millerton Point, one of the most critical and threatened scenic areas along the eastern shore of Tomales Bay. To date, TPL has invested its resources in the interim protection of numerous potential building lots in the Millerton Point subdivision. Unless a public protection strategy can be developed and implemented for these lands in the near future, our ability to hold these lands free of development will be lost and the resource integrity of this now-undisturbed area will be irretrievably sacrificed.

The legislation you have proposed affords a clear and effective avenue to resolve these kinds of resource threats at Millerton Point and elsewhere in the Point Reyes area. I am grateful to you for your commitment to this area's resources and look forward to working with you to realize the goals of this legislation.

Sincerely,

Alan Front

Alan Front
Vice President

The Trust for Public Land
National Office
116 New Montgomery
Fourth Floor
San Francisco, CA 94105

(415) 495-4014
Fax (415) 495-4103

WEST MARIN
Chamber of Commerce
P.O. Box 1045
Point Reyes Station, CA 94956
(415) 663-9232

July 7, 1997

The Honorable Lynn Woolsey
U.S. House of Representatives
439 Cannon House Office Building
Washington, DC 20515

Dear Representative Woolsey:

On behalf of the West Marin Chamber of Commerce, I would like to express our very strong support for your Point Reyes National Seashore Farmland Protection Act of 1997 (H.R. 1995). Our organization serves the Farmland Protection Area and represents multiple local business interests, including agriculture, communications, finance, lodging, real estate, recreation, restaurants, and retail. We have had three votes concerning this Act, two by our general membership and one by our board of directors, and on all three occasions the votes were unanimously in favor.

The proposed legislation would allow the National Park Service to acquire conservation easements on lands adjacent to Tomales and Bodega Bays. It thus has two key features that could set a pattern for protection of agricultural land and enhancement of national parks. First, it provides for acquisition of conservation easements rather than outright land purchase. This approach has the virtue of maintaining existing free enterprise while substantially reducing - by more than half -- the public cost of preserving the open space adjacent to our national parks. Second, it allows the National Park System to acquire conservation easements only from willing landowners, thus protecting the sanctity of private property rights.

There are many reasons that the local business community is so strongly in favor of this Act: its indirect support for our local hospitality industry and commercial enterprises by enhancing the value of the Point Reyes National Seashore; its preservation of local agriculture, which is one of the major segments of our economy; its respect for private property rights; its efficient use of taxpayer money; and its administration through a popular local institution, the Marin Agricultural Land Trust. For all these reasons, we commend your introducing H.R. 1995 and look forward to its successful passage.

Sincerely yours,

Laurence Kirsch, President

WEST MARIN
Chamber of Commerce
P.O. Box 1045
Point Reyes Station, CA 94956
(415) 663-9232

January 31, 1997

The Honorable Lynn Woolsey
U.S. House of Representatives
439 Cannon House Office Building
Washington, DC 20515

Dear Representative Woolsey:

On behalf of the West Marin Chamber of Commerce, I would like to reiterate our overwhelming support for your legislation, the Point Reyes National Seashore Farmland Protection Act. Your bill would allow the National Park Service to acquire conservation easements on lands adjacent to Tomales and Bodega Bays.

This legislation, along with your efforts to provide adequate funding, would preserve local agriculture, support our local hospitality industry, and enhance the value of a national treasure, the Point Reyes National Seashore. It would also provide a national model for public-private partnerships that simultaneously promote local business and protect the resources of a national park, providing these benefits through an innovative financing mechanism that minimizes taxpayer costs.

Your proposed legislation has two key features that could set a pattern for protection of agricultural land and enhancement of national parks. First, it provides for acquisition of conservation easements rather than outright land purchase. This approach has the virtue of maintaining existing free enterprise while substantially reducing -- by more than half -- the public cost of preserving the open space adjacent to our national parks. Second, it allows the National Park System to acquire conservation easements only from willing landowners, thus protecting the sanctity of private property rights.

As an organization that represents multiple local business interests -- including agriculture, communications, finance, lodging, real estate, recreation, restaurants, and retail -- we look forward to working with you in passing this legislation during the present Congress.

Sincerely yours,

Laurence Kirsch, President

Lynn Woolsey
Congresswoman
U.S. House of Representatives
1050 Northgate Drive, Suite 140
San Rafael, CA 94903

Dear Congresswoman Woolsey;

As a landowner in the proposed Point Reyes Farmland Protection Area, I want to express my support for the recently introduced legislation. The proposed legislation, H.R. 1995, will provide an option to willing landowners for the continuation of productive agriculture in the area and provide for protection of the important resources in Tomales Bay. It is my hope the final legislation will provide the needed authority and funding to protect family farming and the relatively undeveloped nature of the area adjacent to Point Reyes National Seashore.

Your efforts are appreciated.

Sincerely, Patrick Brennan

Whom it may Concern:
I was dismayed to hear
about plans to Comercialize
Pt Reyes. It consists
of wild life, Farms &
a spectacular view.
Many visitors enjoy
spending a day here.
to view all the beauty
of Pt. Reyes. If it is
taken away to put
buildings here it will
Just be like all the other
towns here Sincerely Ellen Cody

To: The Editor 14 June 1996

Mr Martin Pozzi's letter of June 11 is replete with misinformation and distortions concerning the Point Reyes National Seashore Farmland Protection Bill.

The avowed purpose of the Bill is"preserve productive long-term agriculture and aquaculture in Marin and Sonoma counties,primarily by maintaining the land in private ownership restricted by conservation easements."

Landowners will receive compensation for the development rights that are eliminated and for the conservation easements,i.e. "lands or interests in lands may only be acquired. .by donation,purchase...or exchange."

Local and state controls will continue: "...nothing in this Act shall authorize the Secretary to regulate the use or enjoyment of privately owned lands,including lands currently subject to easements held by the Marin Agricultural Land Trust,and such privately owned lands shall continue under the jurisdiction of the State and political subdivisions within which they are located."

Landowners within the area covered by this Bill will continue to own the land;will receive compensation for any developmentb right they give up and/ or conservation easements they agree to;funds received in compensation will help these farmers to be profitable;local entities such as MALT or the Sonoma Agricultural Preservation and Open Space District will continue to have jurisdiction and this Bill does reward good stewardship with incentives and on a voluntary basis.

Sorry,Mr Pozzi,you've got it all wrong.

C.M.Cooke
Landowner and Farm Bureau Member

Letter to the Editor (Point Reyes Light and Marin IJ)

Supports Woolsey Bill

We are agricultural landowners within the boundaries of the proposed Point Reyes National Seashore Farmland Protection Act who strongly support this legislation.

We are concerned that the bill is not being accurately represented, and we wish to address these misperceptions and inaccuracies.

The Farmland Protection Act is designed to give local ranchers an opportunity to preserve - now and for future generations - their land ***which will remain in private ownership.*** Private lands within the boundary, with or without development restrictions (conservation easements), do not become "park land" subject to federal regulations. Rather, this bill has been specifically designed to meet the local ranchers concerns on this matter. The bill does not give the Federal government any authority to regulate private lands, and private land within the Farmland Protection Area will continue to be governed by State and local law.

The primary purpose of this bill is to authorize the Federal government to purchase conservation easements from willing sellers in voluntary transactions. A "park" boundary is necessary in order to define on what land the Park Service would be authorized to purchase conservation easements.

These easements would be monitored by the Marin Agricultural Land Trust (MALT), a local non-profit organization which has developed a strong reputation within the local agricultural community over the past 17 years. (Sonoma County easements would be monitored by other local non-profit agencies.)

The farmland facing Point Reyes along the East shore of Tomales Bay has been owned by families and individuals who are committed to preserving our agricultural heritage. Marin agriculture is diversifying and making the local agricultural economy more responsive the needs of the market place. We recognize the value of a bill which would help all farmers in our area preserve and protect the land which we all love.

The owners of 11,000 acres of agricultural land within the proposed boundary have already sold a conservation easement to MALT. The Woolsey bill would give others of us a similar option.

Sharon Doughty
Joe and Scotty Mendoza

APR 03 1997

MAR 26 1997

WILLIAM R. WALTON III
REPRESENTATIVE
ESTERO MUTUAL WATER COMPANY
P.O.BOX 75
DILLON BEACH CA 94929-0075
(707) 878-2660

CONGRESSWOMAN LYNN WOOLSEY
6TH DISTRICT, CALIFORNIA
CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON DC 20515-0506

19 MAR 97

DEAR CONGRESSWOMAN WOOLSEY:

THANK YOU FOR YOUR LETTER OF 11 JAN 97 (INCL 1) CONCERNING THE PT. REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT. I AM SORRY IT TOOK SO LONG TO REACH ME DUE TO SEVERAL DIFFERENT ADDRESSES FOR ESTERO MUTUAL AND ME.

I HAVE MET GRANT DAVIS AND SHOWED HIM THE PARCELS OF LAND OWNED BY ESTERO WITH THE CONSIDERABLE AID OF OUR MANAGER, JOHN BREZINA. I ALSO ATTENDED YOUR MEETING IN THE TOMALES ELEMENTARY SCHOOL ON MARCH 15.

ESTERO MUTUAL WATER COMPANY FULLY SUPPORTS YOUR POSITION ON PROTECTING OUR RANCH LAND IN PERPETUITY AND WE WISH YOU EVERY SUCCESS WITH YOUR BILL.

SINCERELY,

William R. Walton III

WILLIAM R. WALTON III

CF: GRANT DAVIS, SR. FLD. REP.
SUZAN WILSON, PRES. EMWC.

Dear Editor,

I'm writing in support of the Pt. Reyes Farmlands Protection legislation, which enjoys a broad base of support among residents throughout Sonoma and Marin Counties. The bill, sponsored by Representative Lynn Woolsey, would fund an entirely voluntary program, fairly compensating willing property owners for not being coerced into subdividing their ranches. The resulting open space easements will be held locally, by local agencies and land trusts.

Development pressures near the Pt. Reyes Seashore are mounting daily. In recent years, grandiose plans have been announced for a gambling casino, a sprawling golf course, aggregate rock quarries, and housing developments, all within the footprint of this legislation. Inappropriate and highly-visible rural subdivision of agricultural land has already occurred, right near park boundaries.

We now have a unique, one-time opportunity to economically protect the Pt. Reyes National Seashore by using open space easements, negotiated only with willing sellers, using cooperation instead of regulation to preserve our agricultural heritage. Future generations will judge us by whether or not we act now to protect Pt. Reyes.

Sincerely, Michael Friedenberg

APR 1 0 1997

April 8, 1997

Dear Congresswoman Woolsey,

It was great to see you at the property owners meeting on March 15. I am a property owner in the Farmland Protection Area and I support your bill. I am working here for you at the grassroots level because I believe this bill is a good deal for all of us. This area is a national treasure and the idea of allowing private ownership of agricultural lands while protecting the area from development seems to be a winner for all of us.

Keep up the good work!

Jane C. Healy

Jane C. Healy

Tomales, CA

Leland E. Parker
482 Laguna Vista Road
Santa Rosa, CA 95401
Office 578-2302

To Richard Charter

FYI

Lee

May 9, 1996

Pete Golis, Editor
The Press Democrat
P.O. Box 569
Santa Rosa, CA 95402

Perhaps you could give Pete a call on this or a letter Lee

Dear Pete:

A recent letter from one of Shoreline School Districts trustees expressed concern about the impacts on school tax revenue as a result of the proposed Point Reyes Farmland Protection Act. She specifically sited the loss of revenue resulting from the governments previous purchase of farms at Point Reyes National Seashore and their subsequent removal from the tax rolls.

The proposed Act would have virtually no impact on property tax revenues because the government would be buying conservation easements rather than fee title to the property. While it is true that the market value of the property will be reduced as a result of the sale of the owners development rights, the remaining market value will, in the vast majority of cases, remain substantially higher than the assessed value upon which property taxes are based. This is a result of two long standing tax laws.

(1) Proposition 13 fixes property taxes (with a 1% annual increase) based upon the owners purchase price. For example; lets say a farm was purchased twenty years ago for $200,000 and has a current value of $1,000,000. If the development rights where sold for $500,000, the farm would still be worth about $300,000 more than the assessed value.

(2) California's Williamson Act encourages participating farmers to stay in agriculture by taxing their land as farms rather than as future subdivisions. The vast majority of the properties within the project area are under Williamson Act contracts.

The Point Reyes Farmland Preservation Act will serve to stabilize future demands on school districts by preventing rural residential development. It will also increase the taxable value of tourist related businesses and properties without generating more students.

Sincerely,

Lee

Leland E. Parker

APR 0 8 1997

Rep. Lynn Woolsey
1050 N. Gate Dr. #140
San Rafael, CA. 94903

April 7, 1997

Dear Lynn:

Re: Your Farm Land Protection Bill----

As a Director of the Marin County Farm Bureau, I support your endeavor to protect farm land agriculture along the east shore of Tomales Bay and beyond----

Urbanization is not compatable with agriculture.

Urbanization where home owners leave their entrances open so as the dog and cat can go outside at will. Than the farmer down the road or next door is blamed for the flies entering the home and the farmer ends up in court facing an abatement charge.

Urbanization where home owners object to grapes being sulfured, fruit and walnut trees being sprayed or weed killer being used.

To those who say, " You do not preserve farm land by making it park land", ignore the 35 year reality of the Point Reyes Seashore Park. Would those ranches exist today if there had been no Park?? Or would it have been subdivided with gated driveways??

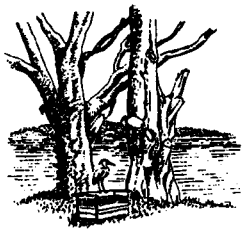
The American Farm Bureau's opposition to your bill raises questions. Would the dairy and livestock operations elsewhere benefit financially if the dairy and livestock operations in Marin and Sonoma went out of business?

It is easy and human for the local Farm Bureau to waver in it's purpose:

To---further the production of quality food and fiber for for human consumption, or

To act as a property owners organization so as to enhance the value of farm land thru urbanization.

Sincerely. Will Lieb



Telephone (415) 663-9002

INN at TOMALES BAY

Bob & Lynnette Kahn, *Innkeepers*

22555 Highway 1 • Marshall, California 94940-9701

MAY 0 8 1997

Congresswoman Lynn Woolsey
U.S. House of Representatives
Washington, DC 20515

Dear Congresswoman Woolsey:

I am writing to let you know that you have our full support for the Point Reyes National Seashore Farmland Protection Act of 1997.

We have written to the President, Congressman Don Young, and Congressman James Hansen to express our support as well. We have explained to them the importance of preserving the beauty and character of the National Seashore, while ensuring continued agricultural uses of the land. We also explained the importance of accomplishing this through conservation easements that maintain private property rights and minimizing the federal cost of protecting our national resources.

Thanks again for pursuing this legislation.

Sincerely,

Lynnette Kahn

Mr. James B. Landreth
PO Box 592
Inverness CA 94937-0592

env. pt. reyes

2009012

The Honorable Lynn Woolsey
U.S. House of Representatives
439 Cannon House Office Building
Washington, DC 20515

Dear Representative Woolsey:

I would like to thank you for introducing the Point Reyes National Seashore Farmland Protection Act of 1997. We need to preserve the beauty and character of our National Seashore, while ensuring continued agricultural uses of land. Your proposal does a great job of accomplishing both of these purposes.

Sincerely yours,

Jim and Louise Landreth

P.S. Since we live in Inverness, we are very close to the scene. The Farmland Protection Act will do the best job in keeping agriculture alive and well in West Marin. THANKS for your great effort in this. Some of the unenlightened ranchers will come to their senses in time, we're sure.

work that you do for me in Washington.
It has been a pleasure to pick up the newspaper and read that "my representative" is there working for me in so many special ways.

Please know that you are fully supported by me and if I can be of help in any way, I would count it a privilege.

I look forward to seeing you the next time you are at the Two Rock Presbyterian Church.

Love and Thanks.

Jean McCarter

Jean McCarter
569 Oceana Drive
Dillon Beach, California 94929

Rep. Lynn Woolsey
1050 Northgate Drive
Suite 140
San Rafael, Ca. 94903

JUL 19 1996

Dear Lynn,

Thank you for coming to our Oceana Marin Homeowners Association meeting held in the Tomales Town Hall on Saturday, July 13, 1996. Your informative presentation of the proposal concerning the P.L. Reefs National Seashore Farmland Protection Act was extremely clear and certainly helps me to know that this is exactly what I hope will take place in our area. We live in Dillon Beach, and appreciate the quiet and beauty of our area and hope that it remains this way. I am in complete agreement with this act and would like to make it clear that I do support this bill and hope it will come to pass. Please count my vote for such a bill.

I want to add my personal thanks " . " for the hard

JUL 22 1996

NEELY DIXON McCARTER

569 Oceana Drive Dillon Beach, CA 94929 707-878-2076

July 18, 1996

Rep. Lynn Woolsey
Suite 140
1050 Northgate Drive
San Rafael, CA 94903

Dear Lynn:

I am writing to support your efforts in promoting the Pt. Reyes National Seashore Farmland Protection Act. As one who lives in the area, I do not see how anyone can loose, and everyone will benefit.

If we can maintain the current balance of lands devoted to cattle and agriculture, we will enhance the quality of life for all people in this area.

I have heard some ranchers express the fear that if the government gets involved in their land, they will not be able to use this or that fertilizer or this or that kind of seed or whatever. It seems to me that a simple statement could be made that the government would not intervene in the ongoing agricultural procedures of the farmers. Can this be done?

Thank you for your efforts in this matter as well as for your helpful positions on so many other issues before our Congress.

It was good to visit with you in church a couple Sundays ago.

Sincerely yours,

on v.pt. reyes CA
7.9.97

13317

The Honorable Wally Herger
U.S. House of Representatives
Washington, DC 20515

Woolsey

Dear Mr. Herger,

I am writing in support of the Point Reyes National Seashore Farmland Protection Act of 1997, recently introduced by Representatives Lynn Woolsey and Wayne Gilchrest.

This Act will help preserve the beauty and character of the National Seashore, while ensuring continued agricultural uses of land. This will be accomplished through conservation easements that maintain private property rights and minimize the federal cost of protecting our national resources.

Please support this legislation, as it provides a national model for public-private partnerships that simultaneously promote local business and protect resources.

Sincerely yours,

Sean Miliano
SEAN MILIANO
37 meadow BRook CT
COTATI, CA 94931

DANCING COYOTE BEACH

AUG 10 1995

August 7, 1995

Honorable Lynn Woolsey, Member
US. House of Representatives
Suite 140 - Northgate Building
1050 Northgate Drive
San Rafael, CA 94903

Dear Congresswoman Woolsey:

As a business owner in Inverness, California, I am writing in support of the Farmlands Protection legislation being proposed for West Marin. The West Marin community depends on the preservation of our farmers and their farmlands. The proposed approach, protects the farmers and their lands while using a funding method that will limit required expenditures of Federal funds.

West Marin is unique in that its farmlands blend naturally with other business enterprises. As an owner of a small Inn, I know that the preservation of these lands will continue to enhance the other businesses of West Marin. The guests who stay at my Inn all wonder at the beauty of the expanse of working farms so near a major metropolitan area.

Because of the intense pressures on these farmlands, I am writing to express my sense of urgency that legislation be past quickly to help preserve the lands. This is a unique opportunity. We must act now. Please let me know if there is anything I can do to assist in your efforts.

Sincerely,

John J. Phillips
Owner

P. O. Box 98 ◆ Inverness, California 94937 ◆ (415) 669-7200

SE[illegible]

September 16, 1996

Representative Lynn Woolsey
1050 Northgate Drive
Suite 140
San Rafael, CA 94903

The Honorable Lynn Woolsey:

Failing to make it big in the Great Gold Rush, my ancestors settled in Bodega, California, in 1851. Subsequently, my family established themselves in ranching in the area. Much of my life has been spent at Dillon Beach; my grandfather's home, built in 1912 there, remains in the family. I have written countless articles and a children's novel about the region, mostly on its wildlife and history. I might add that I donate $100 a month to MALT and a sizable amount to AEC of Western Marin.

I can't tell you how much all my relatives are behind the drive to protect the agriculture and open space on the east shore of Tomales and Bodega Bays, an exquisitely beautiful area, so ecologically important to the park and to the marine sanctuary. This unique and precious landscape, which will continue to be threatened by developers and opportunists, represents a heritage and a way of life that must be preserved. I have written many important Congress members about the need, and I will contribute financially, if wished, to assist your efforts and to help pass the tax initiative easements on the 38,000 acres in contention.

My wife and I wish that we could qualify to vote in West Marin, where we own property, but do not reside. However, we will be most happy to pay the extra tax on goods, etc., each time we visit the coast.

Keep up the good work!

Sincerely,

Kenneth S. Roe

Kenneth S. Roe
3325 Saint Moritz Court
Redding, CA 96002

9/14/96
memo
from

Mr/Mrs Jaak Saame
10950 Minnesota Ave
Penngrove, CA 94951-8602

TO: Representative Lynn Woolsey
1050 Northgate Dr.
Suite 146
San Rafael, CA 94903

SEP 18 1996

We strongly support your efforts for retaining agriculture on the last shores of Tomales and Bodega Bays. As property owners in Oceana Marin we want to protect open space and agriculture in this area. Let us know if we can help in some way to achieve your goal.

Sincerely,
Jaak & Janice Saame

APR 10 1997

Editor
Point Reyes Light
P.O, Box 569
Point Reyes Station, CA 94956

Editor:

We'd like to voice our strong support for the Farmland Protection Bill. Not only will it provide protection for this unique coastline and Tomales Bay, but it will give an unprecedented opportunity to ranchers to sell an agricultural conservation easement on their ranch if and when they think it is in their best interest.

We sold easements on our ranches in 1992 after a state wide bond issue provided the funds. It gave us a chance to diversify, as well as make a number of financial decisions for the future and the next generation. We would like our ranching neighbors to have the same chance,

The bill introduced by Representative Lynn Woolsey has been changed to meet many of the concerns voiced during the last two years. The empasis is now on protecting an agricultural area, not park expansion. There is to be a continuation of local and State jurisdiction (not Federal) on the privately held land, and there is a substantial increase in the initial appropriation to $30 million.

We urge each rancher to take another look at the legislation, weigh the options, and make an independent decision.

Sincerely,

Bill Straus Ellen Straus

Bill and Ellen Straus
22888 State Highway 1
Marshall, CA 94940

October 25, 1997

The Honorable James V. Hansen
Chair, Resources Subcommittee on National Parks, Forests, and Lands
Room H1-814 OHOB
Washington, DC 20515

RE: H.R. 1995 (The Point Reyes National Seashore Farmland Protection Act)

Dear Representative Hansen:

I am a lifelong rancher and have lived in Marin County all of my life. I have lived on our ranch since we bought it in 1923, and have continued to live on it since it was purchased from our family by the Point Reyes National Seashore. My daughter has run the ranch for years and now my granddaughter is running it.

I am in favor of the Point Reyes National Seashore Farmland Protection Act because it will help keep Marin County ranching viable. Marin County ranches have been declining in number for years. Urban development in the southern end of the County has moved north. Ranchers have been bothered for years by the loss of land. Thirty years ago, ranchers began talking about dwindling agriculture that at some point would not be viable and would not have adequate means to support it. We began to talk about some means to keep agriculture viable.

Some twenty years ago we began to talk about conservation easements that would accomplish this for us. The citizens and the County government became involved and finally we developed the Marin Agricultural Land Trust (MALT), a legal entity that did three things. It allowed the owners of the land to get cash in exchange for development rights. It made sure that the land would remain in agriculture. It satisfied all of the people of our County by keeping open space.

We used private and public funds to finance the easements. We supported a state land bond issue for open space that made additional money available. The ranchers supported MALT and used it. A few year ago we ran out of funds, but we do have a sizable area of land still in agriculture.

We have some rather large agricultural areas that still need to be protected. One such area is in West Marin, and it is the object of the Woolsey Farmland Protection Act bill. This Act has the support of the County government and the general public as well as most ranchers. The County population has always been favorable to controlled development and land use planning.

I have been a member of our local Marin County Farm Bureau since its creation in the 1920s. The Marin County Farm Bureau was involved in the creation of MALT and has done many things to support MALT over the years. It currently is split on the Farmland Protection Act and just barely opposed it, on a 9-7 board vote, only because of the intervention of the California Farm Bureau, which brought in lawyers and other assistance for the local opposition faction. The California Farm Bureau has a long history of opposing the Point Reyes National Seashore and opposing MALT. It has tried to hinder MALT since we set it up. The progress we have made in preserving Marin County agriculture has been in spite of the California Farm Bureau's long-standing opposition.

The Farmland Protection Act bill has an additional value that does not concern ranching. It would greatly enhance the value and utility of the Point Reyes National Seashore by creating a beautiful natural boundary for the Seashore on the east side of Tomales Bay. The beauty of this area along the Bay is of great value to visitors at the Park, but the land would remain in agricultural production, which would help agriculture's size and viability.

Sincerely,

Boyd Stewart

Boyd Stewart
P.O. Box 130
Olema, CA 94950

P.O. Box 623
Inverness, CA 94937

GNV. pt. reyes

10670

The Hon. Lynn C. Woolsey
439 Cannon House Office Building
Washington, DC 20515

Dear Representative Woolsey:

We would like to express to you our appreciation for the efforts you are making on behalf of measures to protect the eastern shore of Tomales Bay from development, and specifically, for your introduction of the Point Reyes National Seashore Farmland Protection Act of 1997. We know that in the present political atmosphere, and for a minority representative, it has been and will be difficult going, but we nevertheless have hopes for your success in this matter.

We confess to a personal interest. As I write I can look out our window and see the open slopes of the eastern shore. We would not like to be looking at Orange County.

Yours sincerely,

Geoffrey W. White

Dorothy N. White

July 5, 1997

Helene Robertson & Joe Wahnsiedler
38 Austin Ave.
San Anselmo, CA. 94960
Phone (415) 457-7083 Fax (415) 457-6174

1-12-96

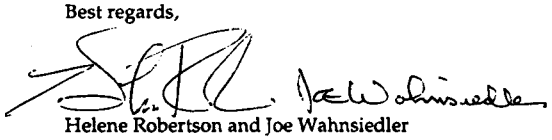
Representative Lynn Woolsey
1050 Northgate Drive
Suite 140
San Rafael, CA 94903

Dear Representative Woolsey:

As owners of five buildable parcels at Millerton Point, above Tomales Bay, we want to express our wholehearted support for the farmland protection legislation as it is now proposed.

Without the bill, our only other choice is to develop the property.

Best regards,



Helene Robertson and Joe Wahnsiedler

INTER-OFFICE MEMORANDUM

Office of County Counsel

TO: Board of Supervisors

FROM: David L. Zaltsman, Deputy

DATE: April 14, 1997

RE: "Point Reyes National Seashore Farmland Protection Act of 1997"

I. INTRODUCTION

Several questions have been raised with respect to the above-referenced proposed federal law (hereinafter the "Act") regarding the effect the Act would have on private property holdings that would be within the "Farmland Protection Area" ("FPA") created by the Act. Specifically, various assertions have been made that inclusion within the FPA would cause the private landowners to have a new "landlord, the National Park Service," and somehow make the property "Parkland." Similarly, it has been stated that inclusion within the FPA - even absent any actual federal ownership interest in the property - would subject the property to federal regulation as parkland (i.e., "38,000 acres of privately owned farmland will become 38,000 acres of publicly managed farmland.").

As will be explained in more detail herein, this office is unable to find any basis for these conclusions in the language of the Act as currently proposed. More importantly, these assertions are contrary to the general federal law regarding the subject of federal regulation of private lands, *even where those lands are within the National Park boundaries.*

II. THE ACT

Among the four (4) primary stated purposes of the Act is one to: "preserve productive long-term agriculture and aquaculture in Marin and Sonoma Counties, primarily by maintaining the land in *private* ownership restricted by conservation easements." To this end the Act amends the portion of Title 16 of the United States Code dealing with the Point Reyes National Seashore to add the FPA and states:

> "(d) Within the Farmland Protection Area depicted on the map referred to in section 2(c) of this Act the primary objective shall be to maintain agricultural land in *private* ownership protected from nonagricultural development by conservation easements."

(Proposed 16 U.S.C. § 459c-1(d)).

In addition, the proposed legislation provides that:

> "(C) For the purposes of *managing* in the most cost effective manner, interests in lands acquired under this subsection, and for the purpose of maintaining continuity with lands that have existing easements, the Secretary *shall* enter into cooperative agreements with public agencies or nonprofit organizations having substantial experience holding, monitoring, and managing conservation easements on agricultural land in the region, such as the Marin Agricultural Land Trust, the Sonoma County Agricultural Preservation and Open Space District, and the Sonoma Land Trust."

(Proposed 16 U.S.C. § 459c-2(d)(2)(C).

Finally, and most importantly, the proposed Act provides that

> "...absent an acquisition of privately owned lands or interests therein by the United States, nothing in this Act shall authorize any Federal agency or official to regulate the use or enjoyment of privately owned lands, including lands currently subject to easements held by the Marin Agricultural Land Trust, the sonoma County Agricultural Preservation and Open Space District, and the Sonoma Land Trust, and such privately owned lands shall continue under the *jurisdiction* of the State and political subdivisions within which they are located.

(Proposed 16 U.S.C. § 459c-2(d)(3)(A).

In other words, while the Federal government may acquire rights to regulate previously private property via actual acquisition of the property (or an interest therein), as would any entity or person acquiring a property interest, absent such an acquisition, the Federal Government would have no such authority.

In summary, this office can find no language of the Proposed Act to support the conclusion that mere inclusion of private property within the FPA would subject that private property to any form of federal regulation or control or make the private property "Parkland."

Indeed, the specific language quoted above mandates an opposite conclusion. And as will be noted immediately below, even if this specific language were not included within the Act, there is no support in general federal law for the proposition that inclusion within the FPA, even if this meant inclusion within the National Seashore Boundary, would lead to any form of Federal regulation or control.

III. FEDERAL LAW OF PUBLIC LANDS

There is no doubt that Federal statutes provide for the creation and administration of a National Park System. (See 16 U.S.C. § 1, et seq.) In addition, the Secretary of the Interior is given broad authority to regulate and implement rules for the use of the National Park sites. (Id.; see generally, 59 Am.Jur.2d, "Parks, Squares and Playgrounds," § 4 at page 287). However, there is nothing in this statutory scheme which gives the Secretary the right to exercise any control over private lands even if they are within the boundaries of a national park.

Fundamentally, "[t]he mere acquisition of property by the United States does not place such property exclusively under the jurisdiction and laws of the United States, and government ownership and use, without more, do not withdraw lands from the state's jurisdiction." (77 Am.Jr.2d, "United States" § 78 at page 72).

Although the Federal Government has power to acquire land "...within a state by purchase or by condemnation without the consent of the state, in such a case the United States will simply be an ordinary proprietor." (Id.)

Most importantly, while under the Constitution, U.S.C.A. Const. Art. 4 §3 cl.2, congress has the power to make all needful rules and regulations with respect to the territory or other property, of the United States, such power does not extend to control an owner of private property's right to use his property. (91 Corpus Juris Secundum, "United States" § 74 at page 147).

If there were any question about this, the United States Supreme Court eliminated such doubt in 1911 in Curtin v. Benson, 222 U.S. 78, 32 S.Ct. 31 (1911). In Curtin, the Superintendent of Yosemite National Park promulgated various regulations regarding the use of private lands for grazing within the Park which were disputed by one of the private landowners.

In holding that the particular regulations could not be applied to the private landowner, the Court noted that there are limits upon the power of the United States to control its land either as a proprietor or a sovereign: "[n]either can be exercised to destroy essential uses of private property." Most importantly, the Court rested its decision on "...the grounds of the want of power of the Secretary or the superintendent to limit the uses to which lands in

the park, held in private ownership, may be put."

Similarly, should the Federal Government become the owner of a Conservation Easement on a piece of property, the Federal Government would have only those rights and privileges that *any* owner of such an interest would have (in the absence of specific legislation stating otherwise, which is not the case herein.)

It is therefore concluded that under the proposed legislation as currently worded, the Federal Government would not obtain any regulatory rights in the FPA unless the Federal Government acquires an interest in particular land via ownership, easement, etc. If the federal government does acquire such an interest, the powers of the federal government would be the same as any other owner of such an interest.

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Point Reyes Light, April 24, 1997 — 15

Supports Woolsey bill

To the Editor:

What a wonderful choice we are offered by the related stories on the front page of your April 17 issue.

At the top of the page is the prospect of preserving the farms and the open space along the eastern side of Tomales Bay. Just below it is an harbinger of what could lie ahead if protection is not enacted: 20 new houses, apparently to be quite fancy, proposed for Dillon Beach.

Here, I believe, is a strong argument in favor of doing all we can to retain the economy and the beauty of Tomales Bay's shores.

I am firmly in support of Lynn Woolsey's "Farmland Protection Act." It is a good way to preserve local dairies and open views for all of us.

It is a bulwark against the kinds of development along the east side of the bay which could have profound and fundamental effects on all of us. I do not want ours to become another over-touristed, over gentrified-community like some that are elsewhere along our coast.

This is a good bill, and our local supervisors are correct to unanimously approve of it.

I feel that those of us who live in West Marin need to speak up now. Talk to each other, make passage of this act high in importance, let our support be known. This act is a balanced measure which benefits our community, residents and ranchers alike.

For those with the extra spark needed to talk to politicians, let's tell them, local and national, that we know this bill is a good idea. It really is.

Rishi Schweig
Inverness Park

EAC supports Woolsey bill

To the Editor:

Since the landowners' meeting last month in Tomales, at which Congresswoman Lynn Woolsey unveiled her proposed Point Reyes National Seashore Farmland Protection Act, the Environmental Action Committee of West Marin has closely followed the debate within the agricultural community.

EAC has also taken an active, albeit less public, role in exploring ways to address the concerns of those ranchers who have voiced opposition to the bill in its present form.

EAC supported the original Point Reyes Seashore Protection Bill, and at the March 15 meeting in Tomales, I and 25 other EAC members attended to demonstrate our interest and support of this new initiative.

During the public comment period, I spoke briefly, suggesting that a few minor edits of the bill's language, particularly changes that would provide clear assurances that the National Park Service has no expansionary ambitions or powers, would gain a great deal of support in the agricultural community.

Two days later, I incorporated my suggested language changes in a letter to Congresswoman Woolsey. The letter concluded, "...I support this bill, as does a majority of the EAC board. But as a former public land rancher (Sunlight Basin, Wyoming) I can, upon reading the current draft of the bill, empathize with the fears, concerns and ambivalence of many landowners in the proposed Farmland Protection Area."

EAC subsequently held a special board meeting April 14 devoted solely to the bill. On hand were ranchers Martin and Sally Pozzi (who oppose the bill in its present form), Seashore Superintendent Don Neubacher, and Woolsey's senior aide Grant Davis.

Regrettably, and perhaps indicative of the intensity of the debate in the ag community, EAC was unable to find any rancher available and/or willing to come speak on the bill's behalf.

That meeting, lasting nearly three hours, was cordial, the discussion informed and focused. EAC's directors listened carefully. A lot of questions were asked and answered. In the end, following one of the most thorough airings of a public policy issue in my tenure with EAC, the board again voted its support of the Farmland Protection Bill.

Having taken a position, EAC still has its work cut out for it. While support for this legislation from the environmental community has its role, without the clear majority support of the affected ranchers, we believe this bill will die.

Thus, as the bill makes it way through the Congress in the months ahead, EAC will be listening carefully to what all sides have to say, and continuing, as appropriate, to suggest ways in which language can be nuanced to achieve the needed consensus.

True, there are those who believe this bill is less than perfect, but it would be a great loss for us all were the ideal to become the enemy of the good. There is much within the Farmland Protection Bill that is innovative and worthwhile, not only for farmers and their families, but for all of West Marin.

Mark Dowie
President, EAC

Point Reyes Light, April 24, 1997 — 15

Landowner supports bill

To the Editor:

I recently purchased and moved to a ranch subsequently included in the Farmland Protection Act. My intention, then and now, is to live a life based on the land — a seemingly saner and more meaningful life than many others, and one for which I admired my West Marin ranching neighbors long before they became my "neighbors."

Since moving to Marshall, I have made it my business to educate myself on matters of civic interest. Of late, I have tried to understand the many issues surrounding Congresswoman Woolsey's proposed Point Reyes Farmland Protection Act.

I met with Mrs. Woolsey, attended various public forums, and have spoken with neighbors — from trucks, at dinner, in bars, and at the local grocery.

Having digested so many conflicting thoughts and opinions (sometimes rational, sometimes not), it is apparent that the ranchers are not of one mind.

And given that fact, the more ranchers that try to hash-out a position and speak their mind publicly, the better. Everyone's voice needs to be heard, from the newest (myself, perhaps) to the most venerable and honorable.

Now to the point. I am no lover of bureaucracy — federal, state, or county. All warnings are justified. And as my neighbors have indicated, this is not as good a deal as the ranchers were given on Point Reyes years ago.

But when everything has been said and done, I think the Woolsey proposal has the potential to be helpful to ranchers and a boon to the collective future of West Marin.

Patrick Brennan
Marshall

Marin Independent Journal A10 ■ Friday, June 13, 1997

Fight for rural Marin

A BATTLE IS brewing in West Marin, and the future of the county's unique agricultural and coastal ranchlands is at stake.

Ranchland advocates are marshaling forces to halt a plan by a Singapore-based business consortium to build 20 luxury houses on a 1,254-acre ranch north of Dillon Beach.

The plan, says Marin Agricultural Land Trust director Bob Berner, will lead to "the piecemeal Balkanization of agriculture." Strong words, echoed by Gary Giacomini, now an alternate member of the California Coastal Commission. With the county, the commission will have to approve the houses.

On the face of it, Kie Boon Trading Company's plan looks benign. The $1-million houses would be built in three clusters, with 95 percent of the land leased for grazing and crop farming.

If the county decides the housing plan meets the spirit and the letter of Marin's very strict Coastal Agricultural Zoning Plan, opponents could appeal the decision to the Coastal Commission. Like the county, the commission would consider the potential domino effect of approving the Coast Ranch project, which could lead to intense pressure on ranchers to sell to developers.

Conservation help could be on the way in the form of the $30 million Point Reyes National Seashore expansion proposed by Rep. Lynn Woolsey. If passed by Congress, the plan, which would include the Coast Ranch, would buy development rights from owners to keep the land in farming forever.

Bottom line: What are we willing to pay to guarantee that West Marin stays agricultural?

SEADRIFT's BEACH — A citizens group called COAST last week went to court, hoping to secure public access to the beach fronting Seadrift subdivision. However, Judge Gary Thomas ruled COAST does not have the standing to sue on behalf of the public. (Light photo by David Rolland)

New subdivision proposed north of Dillon

By Michelle Ling

A group of Singapore investors who own 1,254-acres of coastline north of Dillon Beach are proposing to build a 20-home subdivision.

Attorney Gary Ragghianti, who represents the Kaiboon Trading Company, which now owns the property, this week said whatever land is not used for homes "will be permanently used for agriculture."

Six years ago, former owners, the Kasugai Kanko Kaihatsu Land Company, proposed building a golf course on the site, but Ragghianti stressed, "There will be no golf course. Our proposal will not in any way duplicate the previous one.

"The project will attempt to comply with every agricultural policy, and all land use policies of the county, and the CPZ-60 zoning designation," Ragghianti said. The zoning requires the coastal land be used for agriculture production with 60-acre-minimum lot sizes.

The Singapore-based Kaiboon Trading Company has assembled a team of consultants who will help prepare the proposal to be submitted to the county Community Development Agency in the next several months, Ragghianti said.

The property is currently undeveloped and is used by nearby ranchers for grazing sheep.

Former owners Kasugai Kanko Kaihatsu in 1990 proposed a development called Marin Coast Golf Ranch, which would have included two 18-hole golf courses, a conference center, and a 200-room lodge.

Previous opposition

Community Development Director Mark Riesenfeld said the earlier proposal "was not consistent with our local county-wide plan," and that "members of the Board of Supervisors made public statements to that effect."

Reisenfeld said he cannot comment on the current proposal until after it has been submitted for county review but added, "We have not changed our policy or our opinion."

Government agencies and members of the community raised a host of questions about zoning, public access, traffic, and protection of public-trust lands. Given the controversy and facing about $1.5 million in environmental-study costs, Kasugai Kanko Kaihatsu never proceeded with the planning process.

Bankruptcy

In 1993, Kasugai Kanki Kaihatsu filed for reorganization under Chapter 11 of US bankruptcy laws "for reasons unrelated to issues in this country," said Branwell Fanning, a real estate agent who was the Marin Coast Golf Ranch project manager.

Fanning said the Kaiboon Trading Company subsequently bought the land but has made no attempt to develop it until now.

COAST attorneys say they likely will refile the lawsuit with a simple-change of language, and insist Judge Thomas was in the wrong.

COAST says judge erred

"We believe that was an error of law," said attorney and supervisor candidate Dotty LeMieux of Bolinas. LeMieux is one of

(Please turn to Page 12)

State votes to buy Millerton land

In signing next year's $60-billion state budget on Monday, Gov. Pete Wilson authorized a $350,000 purchase of 14 acres of hillside across Highway 1 from Millerton Point in Marshall.

The money will reimburse the private conservation group Trust for Public Land, which plans to buy the parcel from lawyer Ann Diamond of Ross later this summer and deed it over to neighboring Tomales Bay State Park.

"We'll put in another request next year — knock on wood I'm reelected — to continue the acquisition" of additional land that makes up the Millerton Point Uplands, said Assemblywoman Kerry Mazzoni on Tuesday.

Pushed by Mazzoni, Marks

Mazzoni, with help by Senator Milton Marks and Assemblyman John Burton, pushed to get the funding written into the state budget bill.

The Millerton Point Uplands have been targeted by conservationists and the state and national park systems because they are ready to be developed as 10 large homesites.

Mazzoni estimated that the Millerton project all told will cost $1.7 million over "several years." She plans to host a tour of the property in September for members of the Wilson administration and the Legislature's budget committee.

SF Chron
4-16-97

4
Reyes
Act

Farmland Protection Act

Editor — As a Sonoma County farmer, member of the Sonoma County Farm Bureau, chairman of Sonoma County Planning Commission and chairman of the Sonoma County Open Space Authority, I am very pleased to see Representative Lynn Woolsey has introduced the Point Reyes National Seashore Farmland Protection Act of 1997. I note with approval that the primary objective of this act is "to maintain agricultural land in *private ownership* protected from nonagricultural development by conservation easements."

It is also good to see that acquisition of lands or conservation easements can only be done by "donation, purchase with donated or appropriated funds, or exchange," thus ensuring that the acquisitions will only be through *willing sellers* and they they will not be obtained through condemnation as some have asserted.

The provision in the bill saying that "nothing in this act shall authorize any federal agency or official to regulate the use or enjoyment of privately owned lands" gives even further protection to the rights and desires of the individual farmer and/or landowner.

CHARLES M. COOKE
Sonoma

Point Reyes Light, June 19, 1997 — 3

Sonoma backs Farmland Act

The political prospects for the proposed Point Reyes National Seashore Farmland Protection Act received a boost last week when it was endorsed by Sonoma County officials.

On a 4-1 vote, directors of the Sonoma County Agricultural Preservation and Open Space District joined the Marin County supervisors, West Marin Chamber of Commerce, the state-established Tomales Bay Advisory Committee, and various environmental groups in supporting the bill.

The bill would provide $30 million to Marin Agricultural Land Trust and the Sonoma district to buy conservation easements on 38,000 acres of private property along Tomales Bay, plus 4,000 acres in Sonoma County.

Rancher concerns

Purchases would only be from willing sellers, but some ranchers have opposed the bill, however, arguing it would infringe on their property rights and introduce more government scrutiny of their activities through "regulatory creep."

Nonetheless, Sonoma directors on June 10 resolved that "the lands surrounding the Estero Americano and Tomales Bay constitute highly scenic, valuable natural resources and productive agricultural lands which should be preserved in that state in perpetuity."

Keeps bill alive

The district's resolution will help keep the bill alive, said Bob Berner, executive director of MALT, afterwards. "It would be difficult for Congress to enact legislation like this if it was opposed by local government," he said.

Berner added that MALT doesn't communicate with its Sonoma County counterpart, nor does it have an official position on the bill except to provide "objective information" about it.

"We're still trying to address concerns within the farming community," he said. "We're not lobbying. That's not our role."

— *Stephen Barrett*

SF Chronicle

Bill Would Double Money to Save North Bay Farmland

Voluntary program has appeal for farmers, ranchers

By Jim Doyle
Chronicle North Bay Bureau

Representative Lynn Woolsey has introduced legislation in Congress that aims to preserve 38,000 acres of farmland in Marin and Sonoma counties and shield the northern flank of Point Reyes National Seashore from large-scale development.

The legislation, which Woolsey presented to the House on Wednesday, would authorize the U.S. Department of Interior to spend $30 million to purchase development rights from willing landowners near Tomales and Bodega bays. Federal dollars would be matched by state and private sources of funding.

Similar legislation aimed at expanding Point Reyes National Seashore stalled in Congress two years ago because of budget concerns and because ranchers were wary of additional government regulation and feared they could lose their rights to develop their lands.

The Petaluma Democrat's new bill doubles the amount of money for the easement-buying program, which would be voluntary for ranchers.

Supporters say that the new bill protects ranchers' property rights and that federal park officials do not intend to condemn and take over ranches within the proposed "farmland protection area." Ranchers also would still be able to eliminate coyotes and other predators that prey on their livestock.

"It's the first public-private partnership of its kind in the nation," Woolsey said. "In order to have everyone benefit from this open space, we have to invest in agriculture."

Point Reyes National Seashore is home to 50,000 shorebirds and water birds and more than 80 rare and endangered plant and animal species. Dairy farms within the area contribute $50 million a year to the local economy.

But developers are eager to purchase ranchland in West Marin. And environmentalists are concerned that new development on the slopes of Tomales Bay will cause erosion and the biological degredation of one of the world's most pristine estuaries.

The bill, titled the Point Reyes National Seashore Farmland Protection Act, is co-sponsored by Wayne Gilchrist, a Maryland Republican. Under the legislation, nonprofit groups such as the Marin Agricultural Land Trust and the Sonoma Land Trust would negotiate the conservation easements and monitor them.

The Marin Agricultural Land Trust has already purchased easements for 11,000 acres — one-third of the acreage — within the proposed "farmland protection area" along the eastern side of Tomales and Bodega bays. The easements restrict the type and amount of development that can take place.

"We've listened to the landowners and crafted the (new) bill to fit their needs," Woolsey said. "Those who are philosophically against any kind of conservation easement are not going to support it. (But) that's a small minority."

"We'll give it a really good push this time," said former Marin County supervisor Gary Giacomini, a driving force since 1992 behind efforts to expand the Point Reyes National Seashore. "Most of the ranchers will now support the bill, and the Republicans I've met in Washington say that's important. So I'm very optimistic about it."

Marin I.J.

A6 ■ Wednesday, April 2, 1997

This bill shows promise

THE DEED IS done, and now Rep. Lynn Woolsey has her work cut out.

Over the objections of West Marin ranchers, Woolsey has introduced her Point Reyes National Seashore Farmland Protection Act to preserve 38,000 acres on the east side of Tomales Bay.

You can't please everybody all the time, and Woolsey tried to make the revised seashore bill palatable to ranchers. This draft eliminates the government's right to acquire easements through condemnation and allows ranchers to use pesticides and kill coyotes on their land. The budget to purchase easements increases from $15 million to $30 million.

Environmentalists should cross their fingers that some of the ranchers affected by the new bill will get behind it. Without their support, the endorsement of Democrats Bill Clinton and Interior Secretary Bruce Babbitt won't go far in Congress, not when some ranchers say the bill allows the government to take their land without paying for it.

Is selling development easements all bad if about one-third of the 90 households within the proposed boundaries have already sold their easements to the Marin Agricultural Land Trust?

Politics, and the democratic process, hold the fate of the seashore bill in their grip. The congresswoman came back with some significant compromises. Are the ranchers ready to do the same?

WHAT'S YOUR OPINION? By mail: Readers' Forum, Marin IJ, P.O. Box 6150, Novato 94948-6150. Fax: 883-5458. E-mail: ij@well.com

Lynn/
Pt. Reyes

page B1

Marin Independent Journal • Wednesday, April 16, 1997

Supervisors back seashore expansion

Some ranchers raise objections

By Martin Melendy

Independent Journal reporter

Marin supervisors yesterday endorsed a proposal by Rep. Lynn Woolsey to expand the Point Reyes National Seashore despite the objection of some West Marin farmers and ranchers.

The proposed law, which would provide $30 million in federal money for protection of farms along the eastern shore of Tomales Bay, is designed to maintain agriculture and limit development.

The bill would give landowners the option of selling conservation easements to the government and puts 38,000 acres on the east shore of Bodega and Tomales Bay inside the boundary of the park.

Some ranchers have repeatedly challenged the bill, introduced again this year by Woolsey, D-Petaluma. A similar bill introduced last year raised the ire of some farmers.

Not all farmers disapprove, however. One of the early supporters of the national seashore, 94-year-old Boyd Stewart of Olema, believes the proposal props up agriculture.

"If we lose many more dairies, we won't have a viable agriculture," he said, noting that his family's farm is within the existing park boundaries. "We think of it purely as a means of saving agriculture."

Woolsey reintroduced the bill last month and called it the "Point Reyes National Seashore Farmland Protection Act," which includes provisions for landowners not to participate in the easement program.

The plan involves development rights on 38,000 acres, 11,000 of which are already administered by the Marin Agricultural Land Trust. Most of the land in question has development potential limited to one house per 60 acres.

The easements would likely be administered through MALT and would not be parkland open to the public.

Some farmers contend, however, that the bill reduces their chance to maintain control of their land.

"It's a philosophical issue for some people," said Supervisor Steve Kinsey, who asked his colleagues to back the bill. He noted that the Marin County Farm Bureau's directors have voted to remain neutral on the bill.

"We won't have the detriment of their opposition," Kinsey said. Last year, Farm Bureau opposition helped stop the bill.

"The bill has been written so that it will not affect private property rights or impose any restrictions or regulations on landowners who do not want to participate in the program," Kinsey said.

Mervyn Zimmerman of Marshall doesn't like the price of about $30,000 per acre he might get if the bill succeeds. He doesn't believe that's enough to keep the six-generation farm in operation.

Zimmerman would prefer a lease-back arrangement with the federal government.

"We would be one of the first to sign up, but how do they pick where the money goes?" he said.

"I'm baffled by the ongoing resistance by some landowners who see some sort of covert operation," Supervisor John Kress said. "How can it be a park expansion when the public has no access?"

"Many of the people in agriculture do not see this as the savior of agriculture," said former Farm Bureau president Martin Pozzi of Dillon Beach, a frequent critic of the bill. Pozzi said he doesn't believe the option of participating or not is as voluntary as the bill's advocates portray.

Woolsey aide Grant Davis said the bill is not a "savior," but is "one other option. We think it protects private property rights and brings in about $30 million. I think it's been strengthened by landowners' requests for improvements."

Lynn Pt. Reyes

In Point Reyes Station...Page 8 ... to the Coast...Back Page

April 17, 1997

60¢

POINT REYES LIGHT

Volume L No. 6 Point Reyes Station, California

West Marin's Pulitzer Prize-Winning Newspaper

Farm Bureau now neutral

Supes endorse Farmland Protection Act

By Dave Mitchell

County supervisors Tuesday voted unanimously to support Congresswoman Lynn Woolsey's proposed Point Reyes Farmland Protection Act.

The bill would attempt to keep the east shore of Tomales Bay in agriculture by providing funds to Marin Agricultural Land Trust (MALT), so it can buy conservation easements from ranchers.

Tuesday's vote followed a bitter meeting of the Marin Farm Bureau board last Wednesday, during which directors dropped their opposition to the proposal and voted to remain neutral pending further review.

The decision to remain neutral came on a 6-to-4 vote. Before the voting, Sally Pozzi, wife of former Farm Bureau President Martin Pozzi, argued that Honorary Director Boyd Stewart was not entitled to vote.

Stewart, 94, has been a member of the Marin Farm Bureau since its founding and served as president and a director for many years. "I've always voted and made motions," he told Mrs. Pozzi. Although Stewart ultimately voted in the majority, the decision to remain neutral would have passed without him.

Ranchers voting with Stewart included: George Grossi, Steve Doughty, Will Leib, Joey Mendoza, and Roy Erickson.

On the losing side were Directors Martin Pozzi; Roxanne Thornton, wife of Farm Bureau President Gordon Thornton who could not vote; Phil Dolcini, and Donna Furlong.

When the issue went to the supervisors, Martin Pozzi told the board that although the Farmland Protection Act supposedly authorizes merely funds purchases of conservation easements, sales will not be totally voluntary.

Marshall ranchers Merv and Mary Zimmerman also spoke against the act, saying they would get only $1,000 per acre for a conservation easement and would prefer to sell their land outright to the Park Service.

If that occurred, they said, they would want to lease their ranch back from the Park Service in the same way ranchers within the Point Reyes National Seashore do.

Rancher Stewart of Olema, however, told the supervisors the Farmland Protection Act is probably the only way to save agriculture in West Marin.

"If we lose many more dairies," he said, "we won't have viable agriculture."

Also urging the board to support the Farmland Protection Act were the Marin Conservation League, an aide from Woolsey's office, and Supervisors Steve Kinsey, John Kress, and Harry Moore.

CALIFORNIA WOOL GROWERS ASSOCIATION

November 4, 1997

Honorable Lynn Woolsey
U.S. House of Representatives
Washington, D.C. 20515-0506

Dear Representative Woolsey:

The California Wool Growers Association opposes H.R. 1135 and H.R. 1995 which would expand the Point Reyes National Seashore.

Both of the respective bills are misleading in title and summary. While the author claims to be giving the Secretary of the Interior the authority and appropriations for farmland "conservation easements" it is clear that this is nothing more that a park expansion bill. And while the author insists that the bill is intended to preserve farmland, it does nothing more than create public access to what is now private farmland at the expense of taxpayers, local farmers and ranchers.

These bills have become so controversial that it was the subject of discussion at the California Wool Growers Annual Convention. Our statewide membership shared their concerns that these bills could set a dangerous precedent for future park proposals and further erode already battered private property rights. The following resolution was unanimously adopted by the CWGA membership.

WHEREAS, the Point Reyes National Seashore Farmland Protection Act will duplicate existing zoning and the Williamson Act, and;

WHEREAS, 38,000 acres of privately owned farmland will be used to increase the existing Point Reyes National Seashore Park boundary, and;

WHEREAS, the majority of effected landowners are in opposition to the expansion of the Point Reyes National Seashore Park,

THEREFORE, BE IT RESOLVED, that the California Wool Growers Association opposes the Point Reyes National Seashore Farmland Protection Act.

Unifying the Voice of the California Sheep Industry Since 1860
1225 H Street, Suite 101 • Sacramento, California 95814-1910

Although we share your desire to protect farmland and open space, we cannot accept the conversion of farmland to public access parks.

Sincerely,

Jay B. Wilson
Executive Vice President

MARIN COUNTY FARM BUREAU

520 Mesa Road, P.O. BOX 219
Point Reyes Station, California 94956
(415) 663-1231, FAX (415) 663-1141

November 7, 1997

The Honorable Lynn Woolsey
U.S. House of Representatives
439 Cannon Building
Washington, D.C. 20515

RE: Pt. Reyes National Seashore Farmland Protection Act
Your testimony to the Parks Subcommittee on October 30, 1997

Dear Honorable Woolsey,

You testified to the Subcommittee on National Parks and Public Lands on October 30, 1997 as follows:

> "While some members of the local Farm Bureau chose to continue opposing the bill, the Marin Farm Bureau was split when they voted on this bill and officially decided to stay neutral. Based upon the individual meetings I held with landowners, I believe that the majority of the affected local landowners support this bill".

This is not correct. I sent you a letter dated May 9, 1997 stating that the Marin County Farm Bureau reaffirmed our position of opposition.

> "Our continued opposition is based on Farm Bureau policy and property owners position." We also noted that "farm related organizations and the overwhelming majority of landowners realize this legislation, as stated in the bill, expands the park and will not preserve agriculture."

I hope this clarifies our position and that you will correct your public testimony to accurately reflect our organizations position.

Sincerely,

Gordon Thornton
President

cc: James Hansen
Richard Pombo
Members of the Subcommittee for National Parks and Public Lands

Testimony of Congresswoman Lynn Woolsey, Sixth District of California

The Point Reyes National Seashore Farmland Protection Act

H.R. 1995

House Committee on Resources

Subcommittee on National Parks and Public Lands

October 30, 1997

which they are located."

After making these changes, I sent the bill for an independent review by the Marin County Counsel's office. The Counsel confirmed that my bill addressed the concerns which the landowners raised. While some members of the local Farm Bureau chose to continue opposing the bill, the Marin Farm Bureau was split when they voted on this bill and officially decided to stay neutral. Based upon the individual meetings I held with landowners, I believe that the majority of the affected local landowners support this bill. In addition, I believe every willing landowner will benefit from this bill's implementation.

The Honorable Lynn Woolsey
U.S. House of Representatives
439 Cannon Building
Washington D.C. 20515

The Honorable Richard W. Pombo
U.S. House of Representatives
Washington D.C. 20515

The Honorable Don Young
U.S. House of Representatives
Washington D.C. 20515

The Honorable James Hansen
U.S. House of Representatives
Washington D.C. 20515

The Honorable Dianne Feinstein
U.S. Senate
331 Hart Senate Office Building
Washington D.C. 20510

The Honorable Barbara Boxer
U.S. Senate
112 Hart Senate Office Building
Washington D.C. 20510

MARIN COUNTY FARM BUREAU

520 Mesa Road, P.O. BOX 219
Point Reyes Station, California 94956
(415) 663-1231, FAX (415) 663-1141

May 9, 1997

The Honorable Lynn Woolsey
U.S. House of Representatives
439 Cannon Building
Washington, D.C. 20515

Re: H.R. 1135 Pt. Reyes National Seashore Farmland Protection Act

Dear Honorable Woolsey,

I am writing on behalf of the Marin County Farm Bureau to reaffirm our position of opposition. Our continued opposition is based on Farm Bureau policy and property owners position. This legislation is a park expansion bill which would include 38,000 acres of privately held agricultural lands as park land. Many of the landowners will receive no compensation for their land being included in the Park. We are joined by the American Farm Bureau Federation, California Farm Bureau Federation, Sonoma County Farm Bureau, California Cattlemen's Association and the North Bay Wool Growers in our opposition. These farm related organizations and the overwhelming majority of landowners realize this legislation, as stated in the bill, expands the park and will not preserve agriculture.

Our Farm Bureau has actively supported the use of voluntary conservation easements for the protection of agricultural land, and would like to have voluntary USDA agricultural conservation easements used for this purpose. These easements are truly aimed at preservation of agricultural land, unlike the proposed legislation which actually creates park land. The proposed expansion area has numerous governing agencies (i.e. California Coastal Commission, Gulf of Farlones Sanctuary, Marin and Sonoma County Zoning (A-60 and A-130) currently restricting the use and as a result the "national interest" of the Pt. Reyes National Seashore is not in jeopardy.

These landowners have taken care of this land for many generations and should be rewarded by allowing them to continue to manage their lands as viable agricultural operations not park lands.

Sincerely,

Gordon Thornton

Gordon Thornton
President

LYNN C. WOOLSEY
9th District, California

COMMITTEES:
BUDGET
EDUCATION AND LABOR
GOVERNMENT OPERATIONS

WASHINGTON OFFICE:
439 CANNON BUILDING
WASHINGTON, DC 20515-0506
TELEPHONE: (202) 225-5161

Congress of the United States
House of Representatives
Washington, DC 20515-0506

DISTRICT OFFICES:
REDWOOD BUSINESS PARK
1301 REDWOOD WAY, SUITE 205
PETALUMA, CA 94954
TELEPHONE: (707) 769-1482

NORTHGATE BUILDING
1050 NORTHGATE DRIVE, SUITE 140
SAN RAFAEL, CA 94903
TELEPHONE: (415) 507-9884

FEDERAL BUILDING
777 SONOMA AVENUE, SUITE 327
SANTA ROSA, CA 95404
TELEPHONE: (707) 543-7182

December 5, 1995

Martin Pozzi, President
Marin County Farm Bureau
P.O. Box 219
Point Reyes Station, CA 94956

Dear Martin:

Thank you for helping to put together the meeting that was held with members of Marin County Farm Bureau and affected landowners concerning the Pt. Reyes National Seashore Farmland Protection Act of 1995 at the Dance Palace on Sunday, November 26th. This was a productive meeting, and I was pleased to provide information about the progress that had been made on the bill to date.

This meeting presented a good opportunity for me to hear from landowners and to answer specific questions concerning the legislation. After listening carefully to the concerns of the Farm Bureau and the affected landowners, I have made several important changes to the Pt. Reyes National Seashore Farmland Protection Act of 1995. A copy of the new draft of the legislation and a reference sheet which further explains the changes that have been made is enclosed for your review. These changes are designed to protect the interests of landowners and to preserve agriculture as a way of life in West Marin.

As I mentioned during the meeting, Chairman Young, the Republican Chair of the Resources Committee, has committed to hold hearings in Marin on this legislation, if the landowners support the idea. He also indicated to me that it is very important that I introduce the bill this month prior to the House recessing for the holidays, so hearings can be scheduled this Spring.

As I made clear at the November 26th meeting, I will not proceed in Washington without the support of the landowners. However, I believe that the latest draft of the legislation responds comprehensively to the outstanding concerns that were expressed at the meeting. I would like to introduce this bill with the support of the Marin and Sonoma Farm Bureaus before the Congressional recess.

I understand that you will follow up this letter with phone calls to determine when the landowners and the Farm Bureau can meet. Please know that a letter of support for this proposal to Chairman Young from both Farm Bureaus by the middle of December will be an important signal to proceed with his plans for a hearing.

Again, Martin, thank you for your willingness to cooperate on this very important effort. Working together, I am convinced that we can pass legislation that preserves agriculture as a way of life in West Marin and is in the best interests of all of our local farmers.

Sincerely,

Lynn Woolsey

Lynn Woolsey
Member of Congress

LW/gd

cc: Marin County Farm Bureau Members
Affected Parties

LYNN C. WOOLSEY
6TH DISTRICT, CALIFORNIA

COMMITTEES:
BUDGET
EDUCATION AND LABOR
GOVERNMENT OPERATIONS

WASHINGTON OFFICE:
439 CANNON BUILDING
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Congress of the United States
House of Representatives
Washington, DC 20515-0506

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TELEPHONE: (415) 507-9554

FEDERAL BUILDING
777 SONOMA AVENUE, SUITE 327
SANTA ROSA, CA 95404
TELEPHONE: (707) 542-7182

December 22, 1995

Martin Pozzi, President
Marin County Farm Bureau
P.O. Box 219
Point Reyes Station, CA 94956

Dear Martin:

From your recent letter I understand that you have contacted Chairman Young on behalf of the Marin County Farm Bureau concerning the Pt. Reyes National Seashore Farmland Protection Act. Let me assure you that Chairman Young gave me his word, and I have given the landowners my word, that this bill will only move forward with local support.

Martin, as you recall, my office provided you with the full list of landowners in the boundary area who were invited to the November 26th meeting in Pt. Reyes Station. The invitation included a copy of the draft legislation. Since then, these same landowners have received a copy of the newest draft of the legislation which incorporated the major changes Farm Bureau requested. These changes are designed to protect the interests of landowners and to preserve agriculture as a way of life in West Marin. If you are aware of additional landowners who should be added to this list, please let me know and I will be glad to include them. In an effort to further address your concerns and those of the affected landowners, perhaps another meeting with the Farm Bureau would prove useful.

I understand that you have concerns about the land within the boundary becoming part of the Pt. Reyes National Seashore through this legislation. As I have explained before, in order for the landowners to be eligible for the initial federal funding of $15 million there must be a demonstrated national interest. Without the boundary, I know of no other way to pursue federal funds.

Martin, I am committed to continue working together with the Farm Bureau and the landowners on this proposal and to further explain the legislative process. I am convinced this bill will help preserve productive agriculture in West Marin, and, that it is in the best interests of our local farmers.

In addition, I would appreciate receiving a copy of the letter that you sent to Chairman Young. Please know how important it is for Chairman Young to receive a letter from Farm Bureau supporting this proposal.

I look forward to working with you to successfully complete this important legislation.

Sincerely,

Lynn Woolsey
Member of Congress

LW/gd

cc: Marin County Farm Bureau Board Members
Gary Giacomini
Don Neubacher
Bob Berner

64.1

October 2[illegible] 1997

Honorable Lynn Woolsey
U.S. House of Representatives
439 Cannon Building
Washington, D.C. 20515

Dear Honorable Woolsey:

RE: Pt. Reyes National Seashore Farmlands Protection Act.

I have committed to agriculture on my land through a MALT easement. Unfortunately, this proposed legislation does not simply provide funding for conservation easements, it expands a National Park. This legislation allows for the condemnation of our land for park expansion, trails, and recreation at the discretion of the Secretary of Interior. There is legal basis for the Department of Interior to argue that it has a direct interest in our MALT easements because they are being used as matching funds for park easements. This would allow the Department of Interior to actually manage our ranches as Parkland.

When I entered into a MALT contract, it did not place any restrictions on any other lands. I am a supporter of the use of voluntary conservation easements, but I do not support park expansion. If preservation of ag lands is truly part of the intent of this legislation, then the easements should be through the Department of Agriculture, those in our government responsible for expertise in agriculture, not the department of interior, the experts in charge of parks.

Yours truly,

Margaret Nobmann

Margaret Nobmann
Black Mountain Ranch
14000 Pt. Reyes/Petaluma Road
Pt. Reyes Station, CA 94956

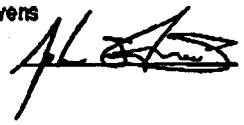
68.1

SI2 Angus Ranch
12900 Hwy. 1
Pt. Reyes, CA

To M.A.L.T,

We as landowners do not support the Point Reyes National Seashore Farmland Protection Act. We feel that this action is purely about monetary gain and land acquisition for a park which Lynn Woolsey is supporting. We as landowners hold these ranches which are paid for. The land belongs to the families which hold them and it is their to right to decide on what is to be done with them, not the public or other ranchers.

Ranch Owner, Luke Stevens 

Ranch Owner, Josh Stevens 

9

LAND ACREAGE SUMMARY

1.	Land Protected Under Stringent Zoning Laws:	38,000.00
2.	Land Protected by the Williamson Act:	27,368.50
3.	Land Protected by:	
	Sonoma Land Trust Marin Agriculture Land Trust Sonoma Co. Agriculture Land Trust & Open Space or Government Owned Land	11,543.28
4.	Landowners OPPOSED:	
	Sonoma County Landowners:	3,532.28
	Marin County Landowners:	20,058.45
		23,590.73
5.	Landowners with Major Concerns:	
	Marin County:	2,540.26
		26,130.99

Revised 11/06/97

LAND OWNERS OPPOSED TO THE
POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT, HR 1135 &HR 1995

23,590.73 Acres signed as OPPOSED

SONOMA COUNTY

NUMBER	LANDOWNER	ACREAGE
1	George Bottarini	548.00
2	Phyllis Hagemann	242.00
3	Robert Mueirath	360.00
4	Randy Mantua	294.00
5	Sue Strong/Marshall	477.33
7	Ken Lanker (Grippi)	460.00
8	Leroy Cerini	239.70
9	Helen Bianchi	111.00
10	Oliver Illia	294.33
11	Gary Bordessa	249.92
12,13	Willard Yuers	80.00
14	Steve Brumm	96.00
[4]18	Roger Braun (Dewer Property)	40.00
19	Denny Tibbetts	40.00
	[7]Total:	3,532.28

MARIN COUNTY

NUMBER	LANDOWNER	ACREAGE
2	Hazel Martinelli ETAL	1,614.47
[1]4	Margaret Nobmann TR	1,192.00
[2]5	Stevens Property	980.00
9	Judith Borello	864.38
10	Donna Furlong	611.10
11	Henry Grossi	1,001.00
13	Lucas/Respini	1,241.93
16	Mervyn Zimmerman ETAL	568.77
17	Jennie Leali ETAL	250.00
18	Bill Barboni	882.76
20	Michael Rea	86.77
[3]22	Erma Crayne	291.41
25	Eugene Poncia ETAL	750.00
[5]26	David Lewis	588.28
29	John Mitchell ETAL	294.11
30	George Zimmerman	319.02
[6]31	Manuel Brazil	960.00
[6]33	Marina Developers	356.66
34	Andy Varlow	91.12
[8]35	Moretti/Herold Property	731.64
36	Peter Gordon ETAL	259.64
37	Elizabeth Hanlein,Coletti	294.52
38	Roy Cerini	360.46
[10]39	R.D. Williamsen Family	620.46
40	Molly Ledger	203.00
42	Edward Pozzi ETAL	1,025.64
43	Garth Conlan	1,103.13
[11]44	Spaletta Dairy	
45	KleBoon Trading-LTD	1,254.00
46	Cynthia Christopher	456.58
[12]47	Lawson Properties	535.48
54	Romeo Cerini	191.84
	Edward Johansson	11.84
	Estero Mutual Water	28.97
[13]55	Joe Washneseidler ETAL	35.51
56	Lawrence Vanoni	1.96
[14]58	Roger Braun	
	[15]Total:	20,058.45
	Total - Both Counties:	23,590.73

Refer to the following page for an explanation of the footnotes.

Revised 11/06/97

The chart on page 10 lists landowners who submitted letters (pages 21-70) or signed petitions (pages 71-82). To our knowledge these landowners have not changed their position and are still opposed to this legislation.

Explanation of Footnotes:

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[1] Letter received after packet printed. Letter attached.

[2] Letter received after packet printed. Letter attached.

[3] Corrected spelling of name. Current letter attached.

[4] Moved from listing for Marin County to Sonoma County Listing.

[5] Corrected spelling of name.

[6] Corrected spelling of name.

[7] Total updated.

[8] Letter in the packet, missing from listing.

[9] Property name clarified.

[10] Mr. Williamsen was opposed to this bill and signed a petition (in packet) prior to his death. His family is opposed to this bill. Refer to the attached letter.

[11] Refer to page 11 "Landowners Who Have Major Concerns".

[12] Clarification of property name.

[13] Corrected the acreage from 35.74 to 35.51 acres.

[14] Moved from listing for Marin County to Sonoma County listing.

LAND OWNERS WHO HAVE MAJOR CONCERNS

WITH THE POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT, HR 1135 & HR 1995

Total Acres: 2,540.26

MARIN COUNTY

NUMBER	ACREAGE	
6	Joseph Panfiglio ETAL	810.00
23	Terry Zimmerman	280.66
44	Spaletta Dairy	1,449.60
	Total:	2,540.26

Revised 11/06/97

Estate of Robert B. Williamson
♦♦♦
P.O. Box 35 ♦ Tomales, California 94971
Fax (707) 878-2314 ♦ Home Phone (707) 878-2314

November 05, 1997

The Honorable Lynn Woolsey
439 Independence Ave, SE
Washington 20515 DC

The Hoonorable Lynn Woolsey,

The letter opposing the POINT REYES NATIONAL SEASHORE FARMLAND PROTECTION ACT HR 1995 which you have with the signature of Robert Williamsen was signed by him prior to his death, you are really scraping the bottom of the barrel when you resort to this sort of measure.

I am now and have always been an owner of the same property as was my husband, my feelings towards HR 1995 are still the same as his, I am also the executor of his estate. Our daughter and son-in-law, Mike and Roberta Strode, Feel the same as we do.

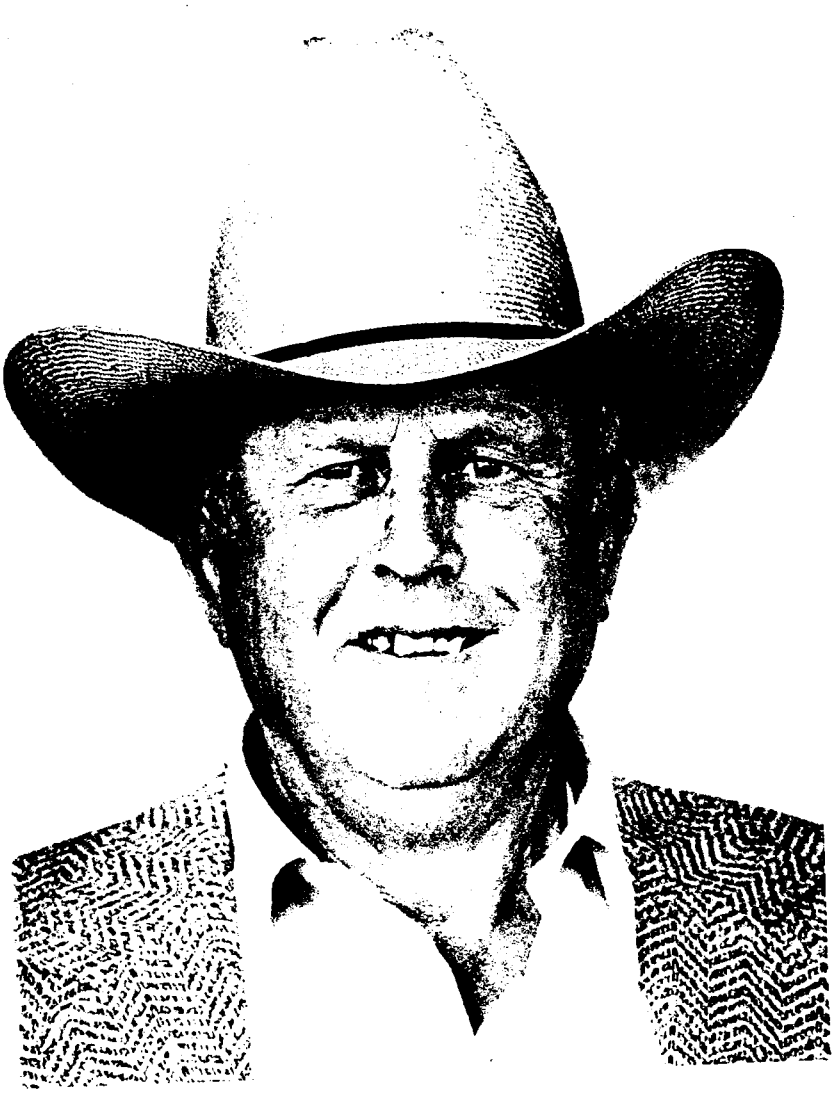
As a result of his death we feel even stronger and more compelled to preserve his heritage, by keeping our properties out of any type of boundary be it park or otherwise.

Sincerely,

J. Joyce Williamson

J. Joyce Williamsen

jw: res



My name is Merv McDonald. My grandfather, John, came to Marin in the 1880's and took up dairying north of the town of Marshall where the Straus Family Dairy is now.

In 1966, my wife and I, along with our two sons and daughter, moved to the Pierce Point Ranch which had been farmed continuously since 1856.

In 1962, the Point Reyes National Seashore was created which included a "pastoral zone" which exempted large tracts of ranch and dairy land from purchase by the National Park Service, which owned the rest of the Seashore. The Pierce Point ranch was included in the "pastoral zone" and I was ensured that the ranch would stay in the "pastoral zone" and I could continue my beef ranching.

In 1970, Congress repealed the pastoral zone provisions which meant the National Park Service was able to buy up all the land in the pastoral area. The holding company that owned the land sold the ranch to the Park Service. I fought hard to stay on the land and then fought hard to stay until I could find another ranch that I could afford. I even hired an attorney to help me because under the provisions of the Relocation Assistance Act, the government has a responsibility "to assist a displaced person (displaced from his business or farm operation) in obtaining and becoming established in a suitable replacement location".

Then, the Pierce Point Ranch was included in 25,000 acres of land designated wilderness by Congress which made it illegal for me to use motorized vehicles on the ranch, which severely hampered my cattle business and environmentalists were telling me to clear out and make room for the elk. Bit by bit the government moved in on my operation by cutting off electricity to my best spring, not letting me grade a deeply rutted road and they prevented me from using mechanized equipment to mend fences. Eventually, I can see the land in the new park boundary designated wilderness and they will wind up with the same problems that I had on my place.

All efforts at finding a compatible ranch at a price I could afford failed. I traveled nearly 15,000 miles in my effort. In 1978, after 5 years of looking for another ranch that I could afford to buy, lease, or manage I got a letter that said I had to leave on or before November 1, 1978. I was thrown off the land so ten Tule Elk could be reintroduced to the park and I moved in 1980.

This tore my family apart. I could not find a place that could support my two sons, a daughter-in-law and myself and my wife. The Tule Elk took over what once was a family farm like the ones in the new park boundary.

Now I see that land is being included in a boundary to "protect the pastoral natural of the land adjacent to the Point Reyes National Seashore". I can't help but wonder if, in time, the land will be designated wilderness and the family farms forced out like they were before.

I would be here today to tell my story, but my health prevents me from doing that. Others might come forward, if they weren't afraid of retaliation from their landlord, the Park Service.

Sincerely,

Marvin McDonald

Merv McDonald
October 23, 1997

Independent-Journal

Vol. 117 | $3.25 A month by carrier | 15c Per copy | San Rafael, California, Tuesday, March 21, 1978 | Telephone 454-3020 | No. 311

The ranchers vs. the tule elk

Family must go: agency

By George Nevin

Up at the Pierce Point Ranch as far north as you can go on the Point Reyes Peninsula, there's a war of sorts going on.

On one side are the National Park Service and 10 tule elk; on the other, three generations of McDonalds, a family that has been ranching in Marin since the 1880s.

The issue is simple: Should the McDonalds be moved out, so that 10 tule elk — a proud breed whose ancestors disappeared from Point Reyes a century ago — can be reintroduced?

The hostilities have been going on for five years, said the clan leader, beef rancher Mervin McDonald, ever since the federal government bought the 2,537-acre Pierce Point Ranch late in 1972 from a holding company which had been leasing it to the McDonalds. The outcome remains in doubt.

"Four years ago," said McDonald, "I got a notice to be out in 90 days." He laughed at that; then he turned serious.

"They've got us now so we can't even operate," he said with a shake of his head. "They keep squeezing us and squeezing us."

Congress has declared the Pierce Point Ranch a wilderness area — a designation McDonald says makes it impossible for him to operate efficiently — and plans to turn the spread into a tule elk refuge when

Continued on page 1

By Bob Hix

Attorney Al Bianchi (left) reviews park plans with Mervin and Dorothy McDonald (right)
Two other generations of McDonalds — Bill, Jeannette, Deana and Mike — join the discussion

it's not enough

TEL AVIV, Israel (AP) — Israel declared a cease-fire in southern Lebanon today effective at 6 p.m. — 8 a.m. PST. But the Palestinian military command said it was "not enough."

"The minister of defense has instructed the chief of the general staff to effect a cease-fire along the entire front in Lebanon as of 1800 hours today," said the brief Israeli army spokesman's announcement. "As from that hour the Israeli defense forces will maintain a cease-fire."

In Lebanon, Mahmoud Labadi, spokesman for the Palestine Liberation Organization, said "Israel's declaration of a cease-fire is not enough. What is needed is an unconditional total withdrawal by Israel from the whole of south Lebanon."

The PLO earlier had brushed aside Israeli talk of a ceasefire, but observers in Beirut believed the final response would depend on the outcome of Syrian-Lebanese talks under way in Damascus.

The announcement came after a day of scattered shooting between Israeli forces and Palestinian guerrillas around Tyre. But the shooting had died down from previous days.

Seven days ago Israel launched an air, land and sea attack to clear Palestinian guerrillas from the area along its northern border. The operation followed a Palestinian terrorist attack in Israel which killed 35 Israelis.

The Israeli announcement came as Prime Minister Menachem Begin was meeting with President Carter in Washington and as the United Nations tried to work out details of a U.N. peacekeeping force to go into southern Lebanon.

There was no immediate indication if Israel had taken a unilateral action in announcing the cease-fire and whether the Palestine Liberation Organization would go along with an end to hostilities.

The Israeli army claimed to control all of southern Lebanon up to the Litani River, except for a small area around the port city of Tyre.

A token U.N. peacekeeping force was waiting to move in when fighting stopped, but U.N. officials in New York said it could be "weeks or months" before Israel heeded the Security Council's demand to with-

Continued on page 1

...et at $798,134

balance the budget, she added.

Mrs. Elliott said she expects the tax rate of the new budget to be about the same as this year's $1.34 per $100 assessed valuation.

Thursday at the Chapel of the Hills, San Anselmo. Burial will be at Mount Tamalpais Cemetery, San Rafael. The family prefers that memorial gifts be made to the Family Church of March, 41 Hawthorne Ave., San Anselmo, 94960.

June Gay Rose

At her request, no service is planned for June Gay Rose, a former San Anselmo resident and day nursery operator who died Sunday at an Oregon hospital after an illness of six months.

Mrs. Rose, 58, had lived in Forest Grove, Ore., with her husband, Colin, since last year.

She was born in Astoria, Ore., and moved to San Anselmo about 26 years ago. For 24 of those years, she ran a day nursery, until her retirement last year.

She also did volunteer work at the Sunny Hills Bargain Box in San Rafael.

Survivors, besides her husband, are two daughters, Nancy Riley and Donna Ursin-Smith, both of Kentfield; three sisters in Oregon, Anita Weddle, Florence Walberg and Colleen Singer; and two brothers in Southern California, Robert and Mel Gay.

Margaret M. Kenefick

A Mass of Christian Burial for Margaret (Peggy) Mary Kenefick, sister of Patrick Kenefick and Pamela Bunnell of San Rafael, will be at 10 a.m. Wednesday at Our Lady of Angels Church, Burlingame.

Miss Kenefick, 35, of Montain View, a teacher in Sunnyvale, died as the result of an auto accident in Boulder Creek Sunday.

She was a native of San Francisco and a graduate of San Jose State University.

Burial will be at Holy Cross Cemetery, Colma. The rosary will be recited at 8 p.m. today at Sneider and Sullivan Mortuary in San Mateo.

Loreldo Justensen

A funeral service for Loreldo Justensen, 76, of San Rafael, a homemaker, was held Monday at Keaton's Mortuary, San Rafael.

Mrs. Justensen died Saturday at her home after a long illness. She was the wife of Russell Justensen, a retired auto body repairman.

She was a native of Utah, who had been a resident of San Rafael for four years after living in Redwood City for 15 years.

Surviving, besides her husband, are two daughters, Joyce Gill of San Rafael and Leola Hollomon of Brownwood, Tex.; a son, Gail C. Justensen of San Francisco; seven brothers and three sisters, all of Utah; 10 grandchildren and seven great-grandchildren.

Inurnment was at Cypress Lawn Cemetery, Colma. The family prefers that memorial contributions be made to Hospice of Marin.

The ranchers vs. the tule elk

Continued from page 1

the McDonald lease expires this October.

Two bull elk and eight pregnant cows arrived late Monday night and will be kept in a 3.5-acre enclosure within shouting distance of the McDonald's ranch house. Soon, a fence will be built across the sharp tip of Point Reyes, and the elk allowed to roam free.

Meanwhile, from McDonald's point of view, the government has been moving in on his operation bit by bit — cutting off electricity to his best spring, barring him from grading a deeply rutted road, preventing him from using mechanized equipment to mend fences.

National seashore Supt. John L. Sansing acknowledged the wilderness rules make it hard for the McDonalds to operate their ranch but added they have known for at least five years they'd have to move some day.

The blue-eyed rancher with the weather-scoured face is angry these days, and he's done what any American might do in a similar situation — he's hired a lawyer.

San Rafael attorney Al Bianchi takes the legal position that "the McDonalds are not obliged to move unless and until they can be assured that an adequate replacement ranch and housing is available."

He's blitzed officials of the Interior Department (which oversees the National Park Service) with letters setting forth this premise and has been after the bureaucrats for treating the McDonalds, in his judgment, like the American Indians who were "relocated" from their ancestral homes.

The government, for its part, has made a sincere effort to help the McDonald clan — there's Mervin and wife Dorothy, sons Mike and Bill and Bill's wife, Deana, and their 5-year-old daughter, Jeannette — find a suitable ranch somewhere else.

Steve Gasper of the park service's real estate division has been assigned to hunt up a replacement spread from the McDonalds and their 800 cattle. But he's failed so far, McDonald said.

He cites a University of California study showing that someone starting a 400-head ranch at today's prices could expect $61,159 in income yearly but $137,320 in expenses, for a loss of $76,161.

"I figure we can buy a half-a-million-dollar ranch with a government loan, but it would cost $1.5 to $2 million to buy a ranch big enough to run 800 cows," McDonald said. Running fewer than 800 head would not be profitable, he added.

Sansing acknowledges that the McDonalds are "faced with some very real hardships."

"His problem is that he's located in probably one of the more spectacular parts of the park," Sansing said. "It's not his fault and it's not our fault."

As long ago as 1971, park planners were talking of designating Tomales Point a wilderness, and the idea of an elk reserve dates back at least that far.

He rejected the notion that park officials assured McDonald the ranch would remain in the so-called "pastoral," or agricultural, zone.

While recognizing that the government is legally responsible to help the family find "replacement housing," this does not extend to buying him another ranch, Sansing said.

"The law says this is a wilderness area, and there isn't any way you or I can just say, forget the law," he said.

McDonald's grandfather, John, came to Marin in the 1880s and took up dairying north of Marshall. Ranching had gone on at Pierce Point at least since 1856. That's when the main ranch house, in which McDonald and his wife still live — was built.

In 1932, the McClure family started ranching there, and that use continued until 1966, when the McDonalds moved in and took over the business. The McClures sold the property itself to a holding company, which resold it to the park service.

"Nobody gave me a thing," said McDonald as he led a tour of the tidy operation. "I put this together myself by shearing sheep years ago I built it with my own hands."

Tule elk once roamed the Point Reyes Peninsula, but were hunted to near-extinction by the mid-1850s. Only a few survived when the legislature passed protective laws before the turn of the century.

"You keep hearing about endangered species," said McDonald. "You know what the most endangered species is? The family rancher."

Marin laborer arrested in triple murder

Continued from page 1

van were registered to names that apparently are fictitious, Green said, but both had the West Street address. At the time, police were unable to locate Reilly, but searched his apartment.

Both Ragusa and his wife had a record of arrests on narcotics charges, police said, but his sister was simply visiting from the East at the time of the killings and wasn't involved in any illicit activities.

The bodies were discovered by a family friend, who had brought the Ragusas' 8-year-old son home from a private school after the father failed to pick the boy up as scheduled.

Oakland police said in January that the Ragusas rented the hillside East Bay home in 1977 after having lived in Mill Valley for some time. The husband, they said, was a former New Yorker supposedly in the business of importing Oriental rugs.

Early in their investigation, police said the stabbing deaths — which left two rooms spattered with blood — could have been the work of as many as a dozen persons and were not a result of a simple robbery.

Green said today there still may be additional arrests.

Apprenticeship applications will be taken

Sheet metal worker apprentice applications will be taken through May 1 in Santa Rosa and San Rafael, according to the North Bay Sheet Metal Workers Joint Apprenticeship Committee.

Applications will be taken at the Redwood Empire Sheet Metal and Air Conditioning Contractors Association, 4340 Redwood Highway, Building F, Suite 108, San Rafael, Mondays through Fridays from 8:30 a.m. to noon and 1 p.m. to 5 p.m.

In Santa Rosa, applications will be taken at the Sheet Metal Workers Union, Local 104, 1700-A Corby Ave., between 7:30 and 9 a.m.

Applicants must be at least 17 years old with a high school diploma or general educational development certificate.

Applicants who meet requirements will be given a written test May 13 at the Kenilworth Junior High School cafeteria in Petaluma.

Further information can be obtained from the North Bay Sheet Metal Workers Joint Apprenticeship Committee, P.O. Box 2338, San Rafael, Ca., 94902.

Israel orders a cease-fire in Lebanon

Continued from page 1

draw its troops from Lebanese territory.

The Israeli army reported shelling guerrilla positions but said the level of firing had dropped.

Independent observers in Lebanon said the south was comparatively quiet after intensive Israeli bombardment of Tyre and other guerrilla fallback positions north and south of the Litani on Monday night.

A Palestinian communique issued in Beirut said Israel made two air strikes during the night against guerrilla positions near Tyre and in the Arkoub region, 50 miles to the west in the foothills of Mount Hermon.

Defense Minister Ezer Weizman told a news conference Israel decided not to occupy Tyre, the Palestinians' chief supply port 12 miles north of the Israeli-Lebanese border, "for reasons of population and to avoid more destruction."

Associated Press correspondent Aly Mahmoud reported from Tyre that the guerrillas remained in tenuous control of a nine-mile coastal strip, stretching from the Rashidieh refugee camp south of Tyre to the Litani, 15 miles north of the border.

"We don't have the weapons they have. We are outnumbered," Mahmoud Labadi of the Palestine Liberation Organization said.

Guerrilla fighters in Tyre cursed their Arab and Soviet backers for failing to come to their aid. "Tell our treacherous Arab leaders that we wish our guns were turned on them rather than on Israel," one guerrilla shouted from a trench.

Fewer than 300 beleaguered guerrilla fighters were holding onto the city and neighboring Palestinian refugee camps.

Israeli troops and tanks seized the approaches to the crusader city from the south, east and northeast. The Israeli navy blockaded the harbor and only the coastal highway to Beirut was still open.

The bulk of the 10,000 guerrillas retreated to fallback positions north of the Litani when the estimated 15,000-25,000 Israeli invaders launched their final offensive over the weekend.

audubon July, 1978

ENVIRONMENTALIST AT LARGE

No room for cows on Point Reyes

PHILIP L. FRADKIN

IT WAS A COOL foggy morning in the 1840s when Joseph Warren Revere, grandson of Paul Revere, rode over the heavily forested hills of the Point Reyes peninsula and out onto its rolling grasslands. There he spotted a herd of 400 "superb fat" tule elk, and the slaughter began. The Mexicans and Indians in the party used lassos and lances; the Americans preferred guns.

Revere, a Navy lieutenant, had been chasing bandits. But at the invitation of a local rancher, he had given up chasing men for elk on this day. Astride a horse that would not stand still, Revere fired blindly into the thickest part of the herd. "My shot accidently took effect, for when I was able to rein up, I returned to the spot and saw a poor doe lying in a reclining posture, the blood welling rapidly from a frightful wound inflicted by two heavy buckshot cartridges which had taken effect in the animal's shoulder. The unfortunate fixed upon me her large full eye, expressive at once of fright, sorrow, and reproach, and the mournfulness of the scene was heightened by the presence of a half-grown fawn, baaing and bleating around its dying mother." Both were quickly dispatched.

Before leaving, Revere and his party of sixteen, plus some stray Indians, gorged themselves on the meat and rendered the fat into tallow, to be carried in hides back to his host's ranch. On the return ride Revere noted, "The Punta Reyes is a favorite hunting ground, the elk being attracted by the superior quality of the pasture—the land lying so near the sea that the dews are heavy and constant, adding great luxuriance to the wild oats and other grains and grasses. The elk are very abundant at this season and more easily killed than cattle. We passed many places, on our way back, where moldering horns and bones attest the wholesale slaughter which had been made in previous years by the rancheros of the neighborhood."

California was then an exploitative, frontier society that could not afford and was not yet aware of the niceties of the conservation ethic. There is not much difference between this tale of slaughter and those of the buffalo and plume birds, except it is less well known.

In the late 1800s the tule elk, *Cervus elaphus nannodes*, was brought to the edge of extinction, there being perhaps one pair of elk remaining in the Central Valley. Once there had been a half-million elk in the state. The population, protected for a number of years, has

PHILIP L. FRADKIN

Point Reyes dairy farmer Merv McDonald: evicted by the return of the natives.

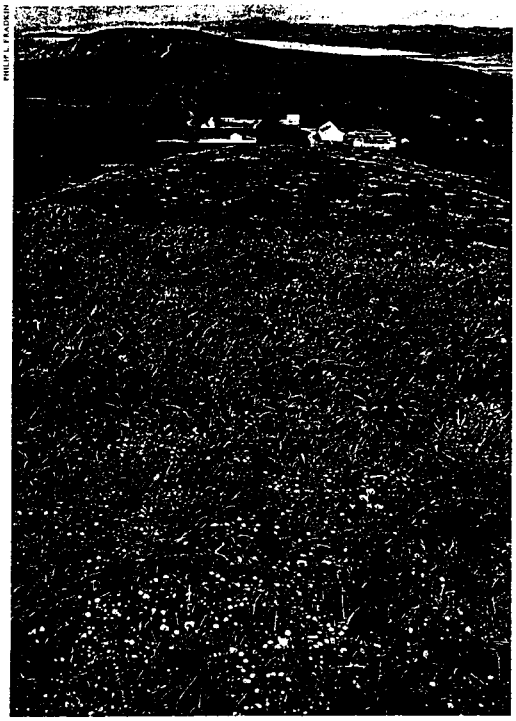

AUDUBON
JULY 1978

partially rebounded; there are now about 800 tule elk, and things are starting to get crowded.

Like other large mammals, the tule elk has strong anthropomorphic qualities which have attracted its own specialized, vocal conservation group—the Committee for the Preservation of the Tule Elk, led by Beula Edmiston. She is a cause-oriented, dedicated woman who knows how to push the right buttons to make politicians and bureaucrats jump in Washington, D.C., and Sacramento, California. The nemesis of this specialized group, and vice versa, is the California Department of Fish and Game.

Both conservationists and bureaucrats have reacted predictably. Tule elk conservationists prefer a laissez-faire, free-roaming condition for the animals. The bureaucrats want to restrict the population, using such management techniques as hunting, culling, and transplanting. At another end of the equation are the economic interests, such as ranchers who feel threatened by the return of the subspecies. Tule elk compete with cattle for grazing and destroy fences. The elk have been shot illegally. It is a classic situation, coming down to who is entitled to live off the land—man, an introduced species, or once-native wildlife reemerged on the scene.

Within twenty years of Joseph Warren Revere's shooting spree, the tule elk were to disappear from Point Reyes, north of San Francisco. They were not to return until last March, when ten heavily tranquilized elk were brought by horse trailer to what is now a national seashore, administered by the National Park Service, grazed by beef and dairy cattle, and hiked by tourists. The only people not happy about the return of the elk were Merv McDonald and his family.



PHILIP L. FRADKIN

Pierce Point Ranch on the national seashore: no replacement to be found.

FIVE GENERATIONS of McDonalds have lived in western Marin County, where pockets of real ranching country still remain not too far north of the Golden Gate Bridge and west of the affluent suburbs in the eastern portion of the county. Merv McDonald's ancestors arrived in West Marin in 1888, after the tule elk had disappeared from the scene. They first ranched on the east side of Tomales Bay, then moved across to the west side and the Point Reyes peninsula in 1962. In 1966, McDonald leased the Pierce Point Ranch at the northern tip of Point Reyes National Seashore; he has lived there with six members of his family ever since. In March, McDonald was confronted by the return of the natives, and it seemed one or the other would have to go. The ten elk—two bulls and eight cows—arrived at the ranch about the same time as a letter from Howard Chapman, western regional director of the National Park Service.

The letter referred to the unsuccessful five-year search for another ranch in the western states that McDonald could afford to buy, lease, or manage. It backed into the principal message: "With regret that you have not been successful in your endeavor but recognizing that this service, working with other federal agencies having any capacity to assist, has expended much effort and time in assisting you in searching for a substitute property on which to operate, nevertheless, I must request that you cease your business activities on this parcel of land and vacate the subject tract on or before November 1, 1978."

This was not the first eviction notice McDonald had received. In early 1973, shortly after the National Park Service acquired the 2,500-acre property, the rancher received a much more tersely worded three-month notice. But it seems unless a miracle occurs or a court rules otherwise, McDonald will have to go this time. It made one wonder if the diminishing number of ranchers in West Marin are more of an endangered species than the multiplying elk. This certainly was the role in which McDonald's adept lawyer attempted to cast the rancher. But the real significance of Merv McDonald's story is how one man got crowded out, one species got crowded in, and how crowded the whole West is.

The present 800 elk throughout the range have sprung from the single pair found in the tule marshes of the southern San Joaquin Valley in 1875. They have

outgrown one habitat after another—their moves being dependent on ranchers' complaints. By 1905 the original Buttonwillow herd had reached 145; by 1923 it was 400; then it crashed to 72 at the time the large ranch on which it grazed was subdivided into 40- and 160-acre parcels. One researcher commented, "Probably the small operators applied their own brand of damage control."

Between 1904 and 1934 a number of transplants were made. Most failed. A notable success was the move to the Owens Valley on the eastern side of the Sierra Nevada. This was not native range, but the elk flourished to the point where the ranchers in the early 1940s pressed the Department of Fish and Game for public hunts. A series of hunts were held from 1943 to 1969. At first unsupervised—hunters shot from moving vehicles into the herds, recalling the Point Reyes hunt a century earlier—the hunts subsequently became more tightly controlled, with resultant reduction in crippling losses.

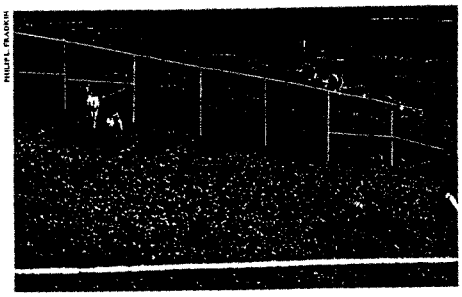
Public pressure from conservationists brought an end to the hunts in 1969. Yet the problem of crowding remained. As researcher Dale R. McCullough wrote, "Throughout its known history, the tule elk has displayed a remarkable ability to build up from reduced numbers. This is in marked contrast to typical cases of endangered species in which the populations are dwindling due to failures of reproduction or survival, the causes of which are poorly or not at all understood."

Realizing public hunts were out—at least temporarily—as an acceptable means of managing the Owens Valley herd, bureaucrats formed an interagency task force to search for additional habitat. In 1971 the task force came up with 23 possible sites for locating new tule elk herds; four, including Point Reyes National Seashore, were selected. That same year the state legislature passed a bill that set the statewide number of tule elk at 2,000 before there could be renewed hunting. It also set the maximum number of elk for the Owens Valley herd at 490 before they could be relocated. The bill provided, "Department personnel may cull sick or inferior tule elk, but only when this is done for the protection, enhancement, and healthy increase of the species." In 1976 Congress passed a resolution which backed up the state legislation but did not speak to the culling issue. Beula Edmiston was the prime force behind both moves. The elk, it should be noted, is not a threatened or endangered species under either federal or state law.

An aerial census of the Owens Valley herd in 1975 showed 400 elk. In 1976 there were 478—just short of the magic number of 490. With Fish and Game personnel aware of the tule elk's tendency to multiply, it should have come as no great surprise that the August 1977 census turned up 92 "surplus" elk.

The department, having done little to find additional habitat, moved predictably, as did conservationists. The next month it published a notice of intent in several California newspapers that its personnel were going to shoot 92 tule elk. A copy of the notice was sent to Edmiston. A public hearing was held in the remote valley. All hell broke loose. The administration of Governor Edmund G. Brown Jr.—pledged to a greater emphasis on protecting nongame species—was deluged with letters, telegrams, and phone calls. Besides the hysteria and emotion, there was the legal argument that the Owens Valley herd was healthy and thus could not be culled, according to state law. E. C. Fullerton, director of the Department of Fish and Game, argued that if overpopulation continued, the elk would become unhealthy. And he claimed this gave him the authority to shoot the 92 surplus animals.

The politically astute Fullerton, pressured by higher-ups, backed down. Though he had said just a short time before that "no sites are currently ready



PHILIP L. FRADKIN

LAWRENCE LEE AND PATRICK COLEMAN

PHILIP L. FRADKIN

Tule elk in their overcrowded Owens Valley home; dairy cows and elk separated by the wire of a temporary holding pen on the Pierce Point Ranch; and the National Park Service's $49,000, ten-foot-high "Berlin Wall for animals," which will confine the elk to the 2,500-acre ranch.

Pacific Sun FREE
SEPTEMBER 14-20, 1979

Food & Drink: The Sun Dinner Squad Finds the Best Yet!
—Page F&D2

A Guide to Organic Produce Markets
—Page F&D6

Whole Access Trails: Finally, The Handicapped Can Hike Too
—Page 8

Can Life be Patented? It's Up To the Courts
—Page 12

Tule Elk May Bring Eviction For Rancher Merv McDonald But He's Not About To Leave Without a Fight
—Page 5

DisplacedRancher

By Hut Landor

All things considered, Merv McDonald is holding up pretty well. At age 55 he has a wife, two sons and a daughter-in-law to support and a beef ranch business in Point Reyes to run. Normally that would be plenty for any man. But Merv McDonald isn't just any man and he certainly doesn't have just any problem. The Point Reyes National Seashore is mad at him, the National Park Service is mad at him, even the United States Government is mad at him. If they have their way in court, McDonald and his family will be evicted from the Pierce Point ranch they have leased for fourteen years, and Merv McDonald doesn't think any of it is the least bit fair.

In 1962 the Point Reyes National Seashore was created by an act of Congress. Included in the act was the creation of a "pastoral zone" which exempted large tracts of ranch and dairy land from purchase by the National Park Service, which owned the rest of the Seashore. Pierce Point ranch, which McDonald was to lease three years later, was included in this pastoral zone.

But in 1970, Congress repealed the pastoral zone provisions because land speculators and developers were buying land in the pastoral zone, shutting down the ranches and selling the land to the government at inflated prices. After the repeal, by 1973 the National Park Service was able to buy up all the land in the pastoral zone, including the land McDonald leased at Pierce Point.

In buying up the ranches, the Park Service offered long-term leases to many of their owners, ranchers who were still anxious to continue their businesses. The owners of Pierce Point (McDonald's landlords) were not ranchers, however, so no such lease offer was made by the Park Service, either to them or to lessee McDonald. Instead, McDonald was asked to leave.

But McDonald was granted a series of one-year authorizations to occupy the property and then a 2 1/2-year special use permit which expired in November 1978. This five-year "grace period" was given so the Park Service could have time to find the family another ranch. Under provisions of the Relocation Assistance Act the government has a responsibility "to assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location . . ." (Remember those words; one judge's interpretation of them could cost McDonald his ranch.)

The special use permit granted McDonald in 1976 is a key part of the government's contention that he leave the ranch now. In a legal brief filed in District court, U.S. attorneys point up its significance:

"The twentieth condition [of the permit] states that the permittee [McDonald] recognizes that the Park Service intends to re-introduce tule elk on the property and the thirty-first condition states that the permittee recognizes that the current wilderness proposal includes the permitted lands and if enacted by Congress the land will be subject to restrictions mandated by the Wilderness Act."

This is what gave the government a specific reason for wanting McDonald off the land. The plan to re-introduce tule elk to Point Reyes had been formulated in 1973 by Seashore superintendent John Sansing.

Merv McDonald and his Pierce Point ranch

Studies by an expert had deemed the area to be suitable, and Pierce Point was "available" as soon as it was classified wilderness land. On October 18, 1976,

Ranches surrounding Pierce Point with similar land characteristics had been spared the wilderness curse.

that's exactly what happened; Pierce Point was included in 25,000 acres of Point Reyes National Seashore land designated wilderness by Congress. At this point, the government argues, McDonald's ouster became specifically necessary.

By the end of 1976, the pressure was really on McDonald. The wilderness designation made it illegal for him to use motorized vehicles on the ranch, which severely hampered his cattle business; environmentalists were telling him to clear out and make room for the elk; all efforts at finding a compatible ranch at a price he could afford had failed; and the government had set November 1978 as the eviction date. To top it off, McDonald felt betrayed by bureaucratic unfairness and insensitivity. Ranches surrounding Pierce Point with similar land characteristics had been spared the wilderness curse, and the Park Service appeared ready to call it quits after a dedicated but fruitless search for a new ranch, even though the Relocation law called for federal help in finding one.

So Merv McDonald got himself a lawyer — lawyers in fact. Albert Bianchi and Susan Mara Bianchi, Hoskins & Rosenberg in San Ra... Outraged by what they considered the fed... treatment of McDonald, they filed a lawsuit o... behalf. In it, they charged the government with exceeding the authority granted them by the Seash... Act and accused them of violating McDonald's ri... to equal protection under the law by designat... Pierce Point wilderness ("arbitrary and capricio... and ruining McDonald's beef business. They a... charged that removing the family from the ra... before finding a replacement ranch constituted tak... of property without compensation (in violation of... Fifth Amendment) and that under provisions of... Relocation Act, McDonald can't be compelled... move until a replacement ranch has been found.

Much of the legal case revolves around complica... Constitutional issues, and the government sought... blunt them in a counter suit. The government's c... revolves greatly around the question of owners... they argue that since McDonald is a lessee, he is... subject to some of the privileges (long-term leases a... exclusion from wilderness designation) granted ne... boring ranch owners.

But the crux of the argument for both sides depe... on the interpretation of the Relocation Assistance A... The question to be answered: What is the extent of... government's responsibility in re-locating... McDonalds and their business?

continued on pa...

Displaced rancher

continued from page 5

There is no argument that both sides have expended considerable time and energy in trying to find a new place. Stephen Gaspar of the National Park Service spent virtually the entire year of 1978 looking for a suitable ranch, and others made efforts previous to Gaspar. McDonald estimates he has traveled nearly 15,000 miles in his quest. As he puts it, "I don't mind moving; hell, the wind and fog out here are wearing me down anyway."

The problem confronting everyone is that land speculators have driven ranch prices through the ceiling in recent years and McDonald simply can't afford to buy or lease anything on the market. Last October he did offer $1 million for a ranch in Idaho; his offer was turned down but McDonald says he was given "every indication that the ranch could be had for a small amount more." Encouraged by this, McDonald turned to William Whelan, director of the National Park Service, for a government loan. He was told by Whelan that there were no provisions for granting such a loan under the Relocation Act, but suggested that the Small Business Administration or Farmer's Home Administration might help. Neither agency was helpful; the SBA suggested McDonald contact the Arabs for a long-term loan and the FHA called it a Park Service problem.

After all this, the government gave up. The applicable section (subsection 4) of the Relocation Law states that the appropriate federal agencies must "assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location." In their suit, the U.S. attorneys explain how they have met that obligation:

"Defendants have done as much as can be expected under subsection 4 in assisting Mr. McDonald in finding a replacement ranch. A Park Service specialist has traveled throughout the western states, both alone and with Mr. McDonald, looking for a replacement ranch. Forty-three ranches have been brought to Mr. McDonald's attention. Mr. McDonald has not bought a ranch simply because he cannot afford it, a fact which he admits."

Naturally, that interpretation of the law generated immediate response from Bianchi and Marks:

"Defendants contend that all this section obligates them to do is assist the displaced person in finding a replacement ranch or farm, and this obligation is fulfilled even if such a replacement ranch or farm cannot be found. However, the statute specifically states that the Government is to assist in obtaining *and in establishing* the displaced person in a suitable replacement location. Therefore, the mere assisting in the finding of a ranch, when no such ranch is found, does not comply with the statute."

All of this brings us to 1979. On May 25, both sides presented pre-trial oral arguments to go along with voluminous written documents; on July 31, U.S. District Judge Robert Schnacke handed down an opinion. The judge's decision was only two pages long and focused solely on the issue of relocation; it dealt yet another blow to the McDonalds:

"Congress has given defendants the duty to 'assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location.' Both this duty, by its own terms, arises only after eviction (displacement) has occurred. Thus, defendants are entitled to evict plaintiffs from the land, regardless of the quantity or quality of relocation-related assistance rendered up to now by defendants to plaintiffs."

WHAT HAPPENS NOW? All Merv McDonald can do is sit tight and hope for the best. His attorneys appealing the judge's ruling and will ask for a order that would keep McDonald on Pierce Poi least through the appeal. All this legal wrangling made McDonald something of a country lawyer. he sees a giant hole in the judge's opinion: "He t'lp me a displaced person until I get evicted. that's not what the law says. The law says if displaced person is anyone who has received wr notice to vacate the property (See box.) A lot of ge will do to be evicted and have to sell my business then have them go looking for some ranch. By time, it will be too late!"

McDonald will have to wait to see if an ap

McDonald's Pierce Point land consists

Last spring two tule elk were found dead and three others sick.

Merv McDonald studies the legal paperwork

court agrees with him. In the meantime, he continues to look for another ranch; if he can find one near his price range, he may get some help this time. Congressman John Burton told both Marks and the *Sun* that if another opportunity similar to the Idaho ranch presented itself to McDonald, he would try to work something out at the Small Business Administration. "That's what they're supposed to be there for," Burton stated emphatically.

The tule elk are perhaps the ultimate irony in this story. They have been on Pierce Point ranch for a year and a half now, mingling with McDonald's cows like they were family — no problems at all. That's not to say the elks' stay has been all pleasant; last spring two were found dead and three others sick — by none other than Merv McDonald. He called the Park Service, which was totally unaware of the elks' plight, and suggested to them that one cause of their sickness might be the copper-deficient grazing land. According to McDonald, "They knew nothing about that."

That brings up the question of whether Tomales Point is the best natural habitat for the elk in the first place. In the 1840s, Joseph Warren Revere (Paul's grandson) hunted the tule throughout the Point Reyes peninsula, but by 1888, when Merv McDonald's great-grandfather settled in west Marin, the elk had all left for greener pastures. Five generations later: the McDonalds are still ranching in Point Reyes, but the elk didn't return until March 20, 1978, when ten tranquilized tules were brought by horse trailer to Pierce Point ranch. Makes you wonder who the natives are after all.

Defining displaced

A key factor in U.S. District Court Judge Robert Schnacke's decision in favor of the government was his interpretation of the definition of "displaced person." The judge ruled that since a person must be evicted to be displaced, McDonald could not be considered displaced and consequently, that the government has no obligation to relocate him. Since that ruling is bound to be appealed, here is the exact language of the Relocation Assistance and Uniform Real Property Acquisition Policy Act as it pertains to displaced persons:

"The term 'displaced person' means any person who, on or after the effective date of this Act [enacted January 2, 1971], moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a Federal agency, or with Federal financial assistance; and solely for the purposes of sections 202(a) and (b) and 205 of this title (42 USCS 4622 (a), (b), 4625, as a result of the acquisition of or as a result of the written order of the acquiring agency to vacate real property, on which such person conducts a business or farm operation, for such program or project."

11/7/97 (1.)

RE: FARMLAND PROTECTION ACT HEARING
DATE: Oct. 30, 1997

My name is Judy Borello owner of a 864 acre ranch within the proposed boundary zone of this Woolsey bill.

Being the last on the "opposition" panel to testify, Congresswoman Woolsey stated that she was surprised that I was there in opposition to her bill when I had everything to benefit from her "Farmland Protection Act"; and in other words "Why was I there?" I started to answer when Congressman Pombo interupted and stated that I could respond in 10 days to Woolsey's question and have it put in the Congressional Record. This is my response:

The original concept of putting the rangelands along the east shore of Tomales Bay into "Park Expansion" was the dream-child of our twenty years plus serving supervisor at the time, Gary Giacomini.

The land adjacent to my ranch had gotten permits to build approximately 10 homes and had paved in a road for their development. This land was not zoned agriculture nor is it farmland. The environmentalists across the bay got excited over the fact that they don't want any homes dotting our hillside as that is "their viewshed," while they continue to dot their own hillside with homes that we can see two miles across Tomales Bay.

(2.)

Being that my ranch is unusual and diversified because the development rights are not encumbered by William-son Act, plentiful water, a valuable rock quarry and septic ponds serving West Marin and parts of Sonoma County. The ranch is also adjacent to a potentially built-out subdivision. Both properties were termed a "threat" the book entitled "Tomales Bay Bodega Bay Watershed Boundary Study" page 15 put out by the Pt Reyes National Park Service.

Supervisor Gary Giacomini's concept was to obtain $30 or $40 million "seed" money from the government and place our lands within a boundary and call it the "Pt Reyes Expansion Bill."

The potentially-developed land adjacent to my ranch was called "The Millerton Point Properties" and that land along with my ranch were to be bought-out "in fee." The rest of the money was to be used to buy-out the development rights of other ranches.

At first I thought if the Park took over our lands, at least I'd be bought-out entirely and could get on with my life. I'm a widow with very poor eyesight and contracting my late husband's ranching operations has placed a demanding hardship on me.

As time passed, I tried to negotiate with at least three quarry operators to manage the quarry since my husband died. One of the biggest concerns and drawback was the Park Bill looming over our heads. They specifically wanted the quarry and did not want the constraints

and hassle of another layer of (3.)
beauracracy to deal with. The County
of Marin and the State of California
are stringent enough to obtain permits;
so the quarry's potential has been put on
hold; while the possibly future quarry
operators wait and see what happens to
the "Park Bill."

In the April 25th 1996 edition of the
Pt. Reyes Light, Superintendent Don
Neubacher of the Pt Reyes National Seashore
stated "that another piece of land
that the Park Service would like to
buy is Judy Borello's 863 acre ranch,
which borders the Millerton Point
uplands, and contains a rock quarry,
plentiful water, sewage ponds, and
development rights."

All of this sounded good, but when
Lynn Woolsey was asked at a Tomales
with her aide Grant Davis, my son
Thos Spargo, and myself, "Did it was
possible to have in writing within
the Bill itself that the Borello Ranch
would be purchased outright?" The
answer was "No," with the comment
that the quarry wasn't operating, so
what was the point. I was stunned
because the reason the quarry wasn't
operating was because of her contro-
versial "Park Bill."

Two weeks later, at the March 15th,
1997 Tomales town meeting, Congress-
woman Woolsey was to address

(4)

the landowners. I asked, at the micro-
phone with Steve Kinsey, our new
supervisor and Superintendent Don
Neubacher of the Park in attendance
at the head table with Woolsey - "if
my ranch would still be purchased
"outright" if her bill passed. The answer
was "no"; but the proposed subdivision
next to me would be purchased.

My thoughts were "This is a Farmland
Protection Act" and the Millerton Point
subdivision is not ranchland nor is
it agriculturally-zoned as such. "
What kind of a "scheme" is this and
why for 5 years was I deceived
and now stand to lose one of my most
valuable assets - The Quarry - as it
can only stay in "idle" petition for
so long before the State of California
"closes" it. I believe this proposed
"Park Bill" constitutes a "taking" as I
have already suffered financial loss
and it also clouds my title to sell
to the private sector.

Martin Pozzi, while serving as President
of Farm Bureau rallied the majority
of ranchers in the "proposed" boundary
zone, who are in strong opposition
to this "bill" and took enormous heat
and ridicule from the local press,
the environmentalists, and the "powers"
behind the bill locally for "doing his
job", which is representing the majority
opposed to the Woolsey bill.

(2)

And in truth, what will any of us gain, if the majority of ranchers are "forced" into "Parkland" against their will.

As to the "tacky" allegation stated by Lynn Woolsey at the Oct. 30 ~~14th~~ hearing, that we used a "deceased person" to bring up our numbers of ranchers opposed to her bill was ridiculous. Congresswoman Woolsey was referring to the recent death of Bob Williamson, a very respected and vigorous opponent of the Farmland Protection Act. His family, who inherited the ranch, still stand in strong opposition to this legislation.

The proposed "Park Expansion Bill" has been a 5 year nightmare ~~for~~ me, since my husband's death in October of 1992. I have been "squeezed" into a "Catch 22," not being able to utilize my assets nor obtain a "clean" sale for my ranch. My life is a constant battle of trying to protect my land-use values and trying to keep the wolves from the door, who want what I own for nothing!

My health has suffered a never-ending series of bouts with high blood pressure - all stress related.

By nature I am not a complainer and with a bit of the Irish in my soul,

(6)

I can usually muster up enough passion for the "fight." I don't relish being a victim and will give 100% to defeat this unjust legislation.

For decades it has been the ranchers who kept our lands free and beautiful; not the environmentalists.

The ranchers deserve to be honored; not intimidated and punished for their opposition to this faulty bill.

A neighboring environmentalist can receive $100,000 to $150,000 an acre; while the same environmentalist works to devaluate his neighboring rancher's land to approximately $1,000 an acre. At least that's the way it is in Marin County and I'd say, that's a very unjust and unfair compensation for the actual stewards of the land.

Thank-You Mr Pombo for allowing me the time to speak my mind,

Judy Barello
P.O. Box 340
Pt. Reyes Sta., CA. 94956
Home phone - 415-663-8333
Work phone - 415-663-1661

P.S. My one hope is that the true patriots of Congress will continue their important work of protecting our individual property rights!

GARTH AND IONE CONLAN
MARIN RANCH
P.O. BOX 970
CAPITOLA, CA 95010
TELEPHONE (408) 462-5974 & (408) 633-3720
24 HOUR FAX: (408) 462-1589 & (408) 633-4889

NOVEMBER 5, 1997

DAN SMITH BY FAX TO 202-226-2301 RE: 1135 & 1995

WE ARE THIRD GENERATION LANDOWNER FARMERS WHO WERE TO TESTIFY ON HR 1135 & HR 1995 ON NOVEMBER 6, 1997. SINCE IT WAS CANCELED PLEASE ACCEPT OUR TESTIMONY AND ENTER IT INTO THE RECORDS AS PART OF THE HEARING TESTIMONY.

NON PROFIT ORGANIZATION'S DIRECTOR'S CONFLICT OF INTEREST & PUBLIC FUNDS THAT ACCOMMODATES TAX ADVANTAGES FOR A SELECT FEW:

We strongly object to legislation that is and has been especially designed to benefit a small percentage of landowners for their own inheritance tax and estate planning; as well as the MALT director who is a party in interest. One of the strongest supporters testifying for these bills has been **Bob Berner**, executive director of Malt. He stands to increase his $80,0000 plus salary by the additional 38,000 acres of land that will be added to his dominion and control. Isn't that the Fox in charge of the Hen House? His wife, an assistant to Marin Supervisor Kinsey, along with Kinsey is also a strong supporter, this smacks of somewhat unclean hands. We question the motives of people who would gain enormous monetary benefit, from taxpayers funding. We, along with many others view this as a conflict of interest, and his testimony as a self-serving salary increase package. Bob Berner should have recused himself from testifying.

The Sharon Dougherty representative for the **Mendoza Family** will readily admit this windfall for their tax advantage world. See enclosed admissions of the patriarch, in The Press Democrat.

GERRYMANDERING MAPPING OF LAND

The area to be included in this parkland bill, is a gerrymandering area, that **excluded my neighbor over the fence** and others who were able to protest successfully. Therefor, one finds our fellow protestor BORDESSA DAIRY in the park, **but his two neighbors conveniently carved out of the park!**

FARMS ARE ALREADY IN AN AGRICULTURAL CONSERVATION EASEMENT WHICH MAKES THIS PARK BILL A REDUNDANCY, AN INSULT TO TAXPAYERS
We are third generation farmers and landowners of our Marin County Farm. We are already in a restricted to farming, State and County Agricultural CONSERVATION Easement. We have been good stewards of our land, we have planted thousands of trees, natural grasses and have worked a lifetime to preserve our land, we are lifetime members of the Sierra Club, we are members of the California and American Farm Bureau, as well as the National and State Cattlemen's Association.

MAJORITY OF FARMERS REPRESENTING MORE THAN SEVENTY FIVE PERCENT OF THE LAND OPPOSE THESE BOONDOGGLING BILLS.
We respectfully urge the Committee to review the documents presented by **Citizens for Protecting Farmland.**

CONGRESSWOMAN WOOLSEY UNFAIR TACTICS
Woolsey called this hearing without notifying landowners. Thus our airline tickets and accommodations were difficult and in some instances, impossible to obtain. Therefore only a few of the protestors were able to attend. This has been the methodology used throughout this Woolsey campaign, personal and selected testimony, unfettered by decency and fair play.

Sincerely,

Garth and Ione Conlan.

Enclosure:
The Press Democrat, October 27,1997 note Gerrymandering Map

their maps, get in gear B1

THE
Press
DEMOCRAT

Santa Rosa, California, Monday, October 27, 1997 141st Year. No. 6 50¢

Plan to protect coast farmland divides ranchers

CHAD SURMACZPRESS DEMOCRAT

Robert Maciraith, whose Bodega Bay ranch is in the buffer zone, opposes the farmland bill.

Buffer zone sought for national park

By TIM TESCONI
Staff Writer

Ranchers who once talked cattle prices at Farm Bureau meetings are no longer speaking to one another because of bitter disagreements over a politician's plan to protect 34,000 acres of coastal farmland in Marin and Sonoma counties from development.

There hasn't been such division in the Sonoma-Marin ranching community since 1959, when the federal government announced its plan to buy 50,000 acres of coastal ranch land for the Point Reyes National Seashore.

This time the dispute is centered on an ambitious plan by Congresswoman Lynn Woolsey, D-Petaluma, to put an "agricultural buffer" around Point Reyes National Seashore by securing the development rights on 38,000 acres stretching from Olema in Marin County to Bodega Bay in Sonoma County.

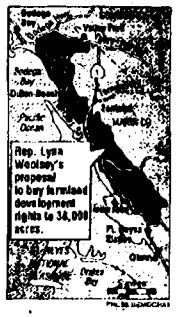
"This issue has become very emotional, pitting neighbor against neighbor and farmer against farmer," said Sonoma County rancher Robert Maciraith, whose 360-acre ranch in Bodega Bay is included in the buffer zone. Maciraith wants no part of it.

The plan is heralded by environ-

See Ranchers, back page

CHAD SURMACZPRESS DEMOCRAT

Sharon Doughty, whose Point Reyes dairy farm is in the buffer zone, supports the farmland bill.



PRESS DEMOCRAT

MONDAY, OCTOBER 27, 1997

Ranchers

Continued from Page A1

mentalists, farmland preservation groups and some ranchers as a way to permanently protect privately held property while allowing landowners to harvest cash to preserve their way of life.

It is strongly opposed by agricultural organizations, including the American Farm Bureau and National Cattlemen's Association, taxpayer groups and many of the ranchers owning the land. They describe the bill as a federal land grab and a $30 million boondoggle that will make a few ranchers rich by buying development rights on property that can't be developed anyway because of zoning regulations and coastal protection laws.

Both sides will get a chance to make their case at Congressional hearings scheduled this week and next in Washington, D.C.

Woolsey said her proposal would keep land around the park in private ownership while protecting it from inappropriate development. "There is a great pressure to develop that agricultural land. This is a way to preserve productive agriculture in Sonoma and Marin counties by investing in the landowners and their businesses," she said.

Under Woolsey's plan, the federal government could spend $30 million — to be matched by Sonoma and Marin counties — to buy the development rights on 38,000 acres along the shores of Bodega and Tomales Bay. Hundreds of landowners would come under the area proposed for protection.

Most of the land — 34,000 acres — is in Marin County. Much of it already is protected through conservation easements purchased by the Marin Agricultural Land Trust.

Ranchers opposing the plan fear that once park boundaries are drawn — even for an agricultural buffer zone — it sets the stage for the National Park Service to one day be their landlord, imposing restrictions that would limit their farming operations.

Muelrath is among the ranchers opposed to Woolsey's legislation, known as the Point Reyes National Seashore Farmland Protection Act. He said it's nothing more than an effort to expand the National Park without paying property owners the true value of their land. He said the stigma of living in the buffer zone of a national park will lower property values for agricultural land.

Protection proposal details

- What: Point Reyes National Seashore Farmland Protection Act by Rep. Lynn Woolsey, D-Petaluma. The first hearing on the bill is Oct. 30 in Washington, D.C., when proponents will testify. Opponents will get their chance on Nov. 6.
- Purpose: To protect 3,000 acres of coastal ranch land adjacent to the Point Reyes National Seashore from development.
- How: The bill authorizes the federal government to spend $30 million together with matching funds from the two counties to purchase the development rights from willing property owners. Local agencies such as the Marin Agricultural Land Trust, Sonoma County Open Space District and Sonoma Land Trust would negotiate the sale of conservation easements and monitor agreements.
- Supporters: Boards of supervisors in Sonoma and Marin counties, Sonoma Land Trust, Sonoma County Agricultural Preservation and Open Space District, Marin Agricultural Land Trust, West Marin Chamber of Commerce and numerous environmental groups.
- Opponents: Farm Bureaus in Sonoma and Marin counties, California Farm Bureau Federation, American Farm Bureau Federation, National Cattlemen's Association, Sonoma-Marin Cattlemen's Association, North Bay Woolgrowers Association, Agricultural Property Rights Alliance and Tax Reform Immediately.

those opposed will get their chance to speak out against it Nov. 6.

Doughty hopes to convince members of the National Park and Public Lands Subcommittee that Woolsey's legislation should go forward.

Muelrath and other opponents want to kill the bill by documenting the overwhelming opposition from landowners within the proposed buffer zone.

Woolsey first introduced the legislation in 1993, but it stalled despite control of Congress by fellow Democrats. Washington insiders say the bill has even less chance in a Congress controlled by Republicans concerned about cutting spending and preserving private property rights.

Woolsey said her bill has garnered co-sponsors from both parties. Congressman Frank Riggs, R-Windsor, has not taken a position on Woolsey's legislation. Mike Donohue, Riggs' press secretary, said it's unlikely Riggs would support legislation that impacts local property rights when a majority of the landowners are opposed.

Woolsey said her goal is to win Congressional approval next year. She insists that a majority of the landowners in the 38,000-acre park buffer support her legislation even though surveys by both the Marin and Sonoma Farm Bureaus have found most landowners are opposed.

"I've listened to landowners and crafted the bills to fit their needs," said Woolsey. She is looking for-

Woolsey said she is trying to secure federal money to help local agencies such as the Marin Agricultural Land Trust, the Sonoma County Agricultural Preservation and Open Space District and the Sonoma Land Trust buy development rights to farmland. The Marin trust has run out of money. Marin County residents have twice voted down a sales tax for open space.

Woolsey's legislation is supported by all of those agencies and the boards of supervisors in Marin and Sonoma counties.

Woolsey said the lines for the buffer zone are really an "opportunity" or "eligibility" boundary for the sale of development rights by willing landowners, not a boundary for park expansion as opponents fear.

"The lives of landowners not wishing to participate will not change at all," Woolsey insists.

Most opponents said they would have supported Woolsey's legislation if the $30 million for development rights had been channeled through an existing farmland preservation program administered by the United States Department of Agriculture.

"If this was truly a farmland protection bill, it would have gone through the agriculture department," said Muelrath.

Woolsey said the best chance to channel $30 million to her district for farmland preservation is through the National Parks sys-

tural use.

"With this legislation, selling your development rights is voluntary, but the boundary that has been drawn is not voluntary," said Muelrath, who runs family-owned ranches in Santa Rosa and Bodega Bay.

Point Reyes dairy rancher Sharon Doughty, who supports the Farmland Protection Act, said the issue has become so emotional that the "logic is gone" for ranchers suspicious of a sinister, take-over plot by the federal government.

Doughty had her doubts too but believes Woolsey has rewritten the legislation to address the concerns she and other ranchers had when the bill was first introduced four years ago. Doughty said she now can support the bill without worrying about the impact it would have for future generations who farm the land.

"I'm confident I'm not doing something that will come back to haunt my grandchildren in the years to come," said Doughty, who milks 300 cows on her 800-acre ranch in Point Reyes. Doughty and Muelrath are among 10 North Bay ranchers and community leaders planning to go to Washington, D.C. for the first hearings on the bill since it was reintroduced last year. Doughty and other supporters will testify Oct. 30 while Muelrath and third to the bill's first hearing before the subcommittee of the National Resources Committee.

"We are going to answer the subcommittee's questions about the bill and dispel some of the misinformation that has been circulated by opponents," said Woolsey.

Woolsey said her opponents saying they just want to keep their options to develop their land.

That riles Muelrath and other opponents who say there are so many zoning restrictions and controls on their property they couldn't develop their land even if they wanted to.

Martin Poezl of Valley Ford and Manuel Brazil of Tomales, among the most vocal critics of the legislation, already have sold the development rights on their land. They are fighting the bill because it puts their land in the boundaries of the national park and they want no part of it.

The specter of a future takeover by the Park Service is the basis for most of the opposition.

"I don't want that cloud hanging over my family. I am totally against this legislation as are the majority of the property owners I have talked to," said Brazil, whose 1,000 acres in Tomales is part of the proposed agricultural buffer around the national seashore.

[illegible], not the Agriculture Department, which faces a huge demand for its limited financial resources.

Doughty's father, Joe Mendoza, 79, also is supporting Woolsey's legislation, saying he fears federal government intrusion but believes Woolsey has rewritten the bill to keep the purchase and maintenance of development rights under local control.

Mendoza said by authorizing the purchase of development rights the legislation would provide him with cash to help his children pay the inheritance taxes when he dies and passes on his farmland.

"Selling the development rights would be one way to get some funding so we could pay the inheritance taxes and keep the ranch in the family," he said.

The Mendoza family, which owns property throughout West Marin, has 2,300 acres in the proposed buffer zone. Sources said development rights for the property could be worth more than $2 million.

Sharon Doughty, who was raised at Point Reyes, said her goal is to keep her 800-acre dairy as a working ranch.

"I think you have to make up your mind and decide what is important in this life," she said. "I have a sincere interest in keeping my land in agriculture forever."

ROBERT W. GIACOMINI

ROBERT GIACOMINI DAIRY, INC.

P. O. BOX 12
14700 STATE HIGHWAY 1 415-663-1291
POINT REYES STATION
CALIFORNIA 94956

The Honorable James V. Hansen
Chairman,
Subcommittee on National Parks and Public Lands
House Committee on Resources
H1-814 O'HOB
Washington, DC 20515

Dear Chariman Hansen:

I am writing in strong support of H.R. 1995, the Point Reyes National Seashore Farmland Protection Act. This bill will allow landowners within its Farmland Protection Area to sell agricultural conservative easemetns, or development rights. Keeping the lands adjacent to the Point Reyes National Seashore and across Tomales Bay in agricultural will secure the nation's investment in the Park and protect the bay's pristine watershed.

I have lived in Point Reyes all my life and have owned my own dairy business for thirty eight years here in Marin county. I have always been involved with dairy, farming and agricultural preservation organizations tied to the land and I have a personal stake in keeping ag land in the family. I am currently a board member of The Marin County Farm Bureau and I am a past member and President for the Western United Dairymen, Marin Agricultural Land Trust (MALT), and also President of the National Dairy Board 1994 through 1996. I have owned and operated a 700 acre dairy ranch since 1959 which is located within the proposed Farmland Protection Area.

Development pressures in the area are great, and agricultural lands are quickly disappearing. Local zoning, which currently allows development of one unit per 60-acres, is not enough to ensure the economic viability of agriculture in West Marin and West Sonoma Counties as a way of life, while at the same time preserving the undeveloped nature of th Seashore.

Participation in the Farmland Protection Act is strictly voluntary. Conservation easements will be negotiated between willing sellers and willing buyers and will be based on fair market value. H.R. 1995 is modeled after a proven local program, the Marin Agricultural Land Trust (MALT), which will negotiate and monitor the easements, not the federal government.

H.R. 1995 keeps land in private ownership. No additional powers are given to the National Park Service. Park rangers will not patrol these private lands. Ranchers will be allowed to use their land as they see fit. Hunting, predator control, and use of legal pesticides is allowed under the bill. In addition, by keeping the land in private ownership, it will continue to contribute to the local economy and tax base.

As a local rancher in support of this public-private partnership, I urge you to pass the Point Reyes National Seashore Farmland Protection Act. Help me keep my land in agriculture while protection the Seashore.

Sincerely,

Bob Giacomini
Giacomini Dairy

25680 Sir Francis Drake Boulevard
Point Reyes Station, California 94956
November 7, 1997

Honorable James Hansen
Subcommittee on National Parks and Public Lands
U. S. House of Representatives
Washington, D. C. 20515-0506

Dear Mr. Hansen:

We are writing in support of Lynn Woolsey's legislation H. R. 1995, the Point Reyes National Seashore Farmland Protection Act. We operate a 500-cow dairy on the "Historic B Ranch" located on the Point Reyes peninsula which became part of the Point Reyes National Seashore when it was authorized in 1962. We have enjoyed a favorable tenant/landlord relationship with the National Park Service for over 25 years, and have operated a viable business partnership with our son during that period.

We reinvested our proceeds from the sale of the "B" Ranch in 2300 acres of land on the east side of Tomales Bay. This property lies within the boundary of the Farmland Protection Act. Lynn Woolsey has worked very diligently to write this legislation in a manner to address the concerns of the agricultural land owners while protecting the interests of the people of the United States and their investment in the lands of the Park.

We feel that this innovative concept protects the land from development for the benefit of the park while providing for agriculture's need of a "critical mass". It leaves the land in private ownership and on the local tax rolls. Win! Win! We also greatly support the principle of using a local land trust to administer this arrangement.

Please enter our support of HR 1995.

Sincerely,

J H Mendoza Doris S Mendoza

J. H. Mendoza, Sr. and Doris S. Mendoza

117 Tenth Street
Petaluma, CA 94952
November 7, 1997

Honorable James Hansen
Subcommittee on Nat'l Parks and Public Lands
U. S. House of Representatives
Washington D. C. 20515-0506

Dear Mr. Hansen:

I am writing in support of Lynn Woolsey's bill, HR 1995, the Point Reyes National Seashore Farmland Protection Act. Both my mother and my father are third generation dairy agriculturists in this community. I own in trust an 11% interest in our family farm which lies within the boundary of the Farmland Protection Act.

I feel that this bill gives our generation hope that agriculture can survive the threat of development of this area irrespective of changes in policy of the Board of Supervisors. It also gives landowners an alternative source of funds to invest in viable diversified agriculture, to buy out non-interested parties, or to pay inheritance taxes.

Please enter my name in support of HR 1995.

Sincerely,

Kathleen B. Von Raesfeld

Kathleen Bianchini von Raesfeld

25680 Sir Francis Drake Blvd.
Point Reyes Station, Ca 94956
November 7, 1997

Honorable James Hansen
Subcommittee on Nat'l Parks and Public Lands
U. S. House of Representatives
Washington, D. C. 20515-0506

Dear Mr. Hansen:

I would like to convey my support of Lynn Woolsey's bill, H R 1995, the Point Reyes National Seashore Farmland Protection Act. I am a third generation dairyman on Point Reyes. My family sold our property to the Point Reyes National Seashore in the 1970's and repurchased 2300 acres for our young stock on the east side of Tomales Bay. This property lies within the boundary of the Farmland Protection Act.

I am a partner in a 500-cow dairy that has operated under a reservation of use and occupancy with the National Park Service. This has been a generally positive relationship which has allowed us to operate viably. Therefore, I am supportive of this legislation, which also leaves this land in private ownership, but removes the threat of development. To assure the survival of the agricultural industry in Marin County, there must be a enough to comprise a "critical mass". The voluntary removal of these rights, not only adds a source of capital to the industry, but by its limits, insures that this industry has a better chance of survival.

I have been a long-time active member of Western-United Dairyman, and am currently on their Board of Directors. I , also, have been a long-time active member of Marin County Farm Bureau and am currently on their Board of Directors of which I was a recent Past-President. I have served on many important committees and am currently Chairmen of the Marin County Water Quality Committee. I have spent a lot of time to insure the survival of agriculture in Marin County as well as the State of California. I support this new innovative legislation.

Sincerely,

Joe Mendoza

Joseph H. Mendoza, Jr.

The Country House

November 7, 1997

Robin La Mott
Office of Lyn Woolsey
FAX 707-542-2745

RE: POINT REYES FARMLAND PROTECTION BILL

I strongly support the Point Reyes Farmland Protection Bill. Without this bill, local ranching is doomed and Tomales Bay will become polluted.

Sincerly yours,

Ewell McIsaac

- ... ... PO Box 98, Pt. Reyes Station, CA 94956 - 415/663-1627

Blake's Landing Farms
22888 State Highway 1
Marshall, California 94940

November 3, 1997

Honorable James V. Hansen
Chair, Resources Subcommittee on National Parks, Forest, and Lands
Room H1-814 OHOB
Washington D.C. 20515

Dear Congressman Hansen,

We'd like to voice our strong support for the Pt. Reyes Farmland Protection Bill. Not only will it provide protection for this unique coastline and Tomales Bay, but it will provide an unprecedented opportunity for ranchers to sell an agricultural conservation easement on their ranch if and when they think it is in their best interest.

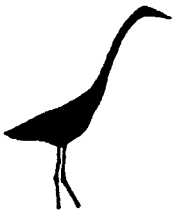
We sold an agricultural conservation easement on our dairy ranch (660 acres total), located on the east shore of Tomales Bay, in 1992, to the Marin Agricultural Land Trust. It gave us a chance to diversify, and make a number of financial decisions for the future of our ranch , as well as for the next generation. It enabled us to transition to organic as the first dairy to do so west of the Mississippi. Our oldest son, Albert, opened a bottling plant, and our dairy products are now distributed in approximately 700 stores.

The bill introduced by Representative Lynn Woolsey has been changed to meet many of the concerns voiced during the last several years. The emphasis on agriculture, continuation of local and State jurisdiction (not Federal), no involuntary sales, and the increase to an initial $30 million appropriation, make this an excellent bill.

We urge you to endorse this legislation. We woould like our ranching neighbors to have the same option that we had to protect their land for future generations, as well as strengthen their agricultural operations.

Thank you for your consideration. Sincerely,

William Straus Ellen Straus



THE EAST SHORE PLANNING GROUP
p.o. box 827, marshall, california, 94940

November 5, 1997

The Honorable James V. Hansen
Chair, Resources Subcommittee on
National Parks, Forests & Lands
Room H1-814 OHOB
Washington, DC 20515

The Honorable Mr. Hansen:

The Steering Committee of the East Shore Planning Group has voted to support the 1997 Point Reyes Farmland Protection Act. After a lengthy discussion and analysis of the Bill, we concluded that it will provide a necessary tool to meet a key goal of our Plan, which is to maintain the existing agricultural industry while protecting private property rights.

The East Shore Planning Group is a non-profit organization which was established in 1986 when the community became concerned about the prospect of unbridled development pushing the agricultural segment of our economy to extinction. It represents approximately 300 people living in the middle of the proposed protected area. After a year of work with input from all parts of the community, ranchers included, the East Shore Community Plan was completed. It was approved by the Marin County Board of Supervisors in October, 1987.

Currently, East Shore Planning Group continues to work to preserve agricultural lands, protect Tomales Bay and monitor developments in the East Shore area. We urge you and your committee to support this important Bill.

Sincerely,

Paul Elmore

Paul Elmore
Acting President

Mrs. Elizabeth B. Hanlein
33 Blanca Drive
Novato, California 94947
(415) 897-7753
November 4, 1997

Mr. Dan Smith
Sub Committee on National Parks
814 O'Neil HOB
Washington, D.C. 20515

Re: Point Reyes National Seashore Protection Act of 1995 or H.R. 1135

Dear Mr. Smith:

I was scheduled to testify on November 6th, but the hearing has been subsequently canceled. Therefore I would like this written testimony to be included in the records. We have been landowners in the proposed Park zone for over a hundred years and have managed to be excellent custodians of our land.

I am primarily concerned with the private property and development rights that this bill would eliminate. Our land is already locked into several layers of zoning that would prevent any type of significant development: the Furlong Act, the Sonoma and Marin Commissions and the Williamson Act to name a few.

My sister and I retained the services of Mr. Remy, a land use attorney in order for us to better understand the ramifications of this bill. There are several points that make this bill totally unacceptable in its present form:

* Pg. 2 ....."the Act's purposes are not focused exclusively, or even primarily, on preserving land for agricultural use. Rather, the Act seeks primarily to prevent development. Of particular concern to property owners in the FPA is the fact that their lands would be designated as part of the Point Reyes National Seashore; some aspects of agricultural operations may be inherently incompatible with tourism.

* Additionally, the valuation of property in the park zone would be seriously devalued. Easements would therefore be valued on the "highest and best use" of agricultural rather than development.

And as stated by the California Farm Bureau:

* "Furthermore, the government will be buying easements, not fee interest. .... Locking property into fixed uses presents serious concerns. Here for example, there appear to be no provisions to compensate the private owner of the fee if, due to changed circumstances, the agricultural uses of the land become infeasible and the owner is left, over time, with no reasonable use of the property."

* Lands within park boundaries will be subject to restrictions Despite assurances that agricultural practices will continue unabated these restrictions could render farm operations impractical or economically unviable.

* This bill says the agency will only condemn lands if they are threatened with "developed uses." To agency officials "developed" uses include the building of a barn, home for your children or the conversion of fields in aquiculture, orchards, vineyards, or other permanent crops.

These concerns are ones that Representative Woolsey in her Bill to place a zone (which is an extension of the Point Reyes National Seashore) around our private property, fails to address. The majority of farmers and landowners are adamantly opposed to this Bill as evidenced by the packet provided by the Committee for the Protections of Farmland .

Please do not allow this ill-conceived Bill to go forward. Landowners who voluntarily wish to sell their easements should have the right to do so. A park zone is not voluntary nor necessary!

Yours very truly,

EB Hanlein

Elizabeth B. Hanlein

attachments: Legal Analysis by Remy, Thomas and Moose, LLP, Attny at Law
Legal Analysis by Theresa A. Dennis, Attorney at Law
Opinion by Bruce Blodgett, Director National Affairs, CFBF

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OF COUNSEL

June 30, 1997

SENT VIA FACSIMILE
ORIGINAL TO FOLLOW VIA U.S. MAIL

Elizabeth Hanlein
33 Blanca Drive
Novato, California 94947

Mary Coletti
1286 S.E. 38th Street
Hillsboro, Oregon 97123

Dear Ms. Hanlein and Ms. Coletti:

As you requested, our office has reviewed the provisions of the proposed Point Reyes National Seashore Farmland Protection Act of 1997. In its current form, the potential effects of this proposal on landowners such as yourselves are summarized as follows:

- The designated Farmland Protection Area ("FPA") would be included as part of the Point Reyes National Seashore; the primary management objective for these properties would be to protect them from development.

- Privately owned properties within the FPA, or interests therein, [1] may be acquired by the federal government, by donation, purchase, or exchange. Government-owned lands can be acquired only through donation or exchange.

    - The sale of conservation easements/development rights is typically voluntary. Here, however, the government has reserved its authority to exercise eminent domain to acquire easements on lands in active ranching or agricultural

[1] Such interests include development rights or conservation easements, which have been promoted as a means to preserve farmland. In general, conservation easements are interests in land that represent the right to prevent the development or improvement of the land for any purpose other than for conservation.

production.

- The federal government would enter agreements with public agencies or nonprofit organizations, such as the Marin Agricultural Land Trust, that would hold, monitor, and manage the federal government's interests.

  - The government's interest in lands within the FPA would be managed in a manner consistent with the purposes of the Point Reyes National Seashore Farmland Protection Act of 1997. This is problematic because the Act's purposes are not focused exclusively, or even primarily, on preserving land for agricultural use. Rather, the Act seeks primarily to prevent development. Of particular concern to property owners in the FPA is the fact that their lands would be designated as part of the Point Reyes National Seashore; some aspects of agricultural operations may be inherently incompatible with tourism. Thus, management and policy conflicts are certain to arise.

- Regulation of properties within the FPA technically remains within the jurisdiction of the state and local authorities unless or until they are acquired by the federal government; as part of a designated conservation zone within the Point Reyes National Seashore, however, the value of properties within the FPA is likely to decrease immediately because their potential for future development will be clouded, at best. [2]

  - Valuation

    The value of a conservation easement is generally calculated by taking the difference between the land's fair market value based on its highest and best use without easement restrictions and its restricted fair market value. For example, if an easement reduces the property's market valued from $150,000 (unrestricted value) to $60,000 (restricted value), the value of the easement is $90,000.

    The "highest and best use" of property is usually considered subdivision/development. Accordingly, conservation easement programs such as this one are still a fairly expensive proposition. Here, however, by designating properties as part of the FPA within the Point Reyes National Seashore, these lands would be devalued because of the potential – indeed, likelihood – that uses would be severely restricted. Easements therefore would be valued on the "highest and best use" of agriculture rather than development.

    Furthermore, the government will be buying conservation easements, not fee

---

[2]/ In the past, the National Park Service, under the auspices of the Point Reyes National Seashore Act and in combination with Marin County and some of its residents, has frozen potential development, conspired to deprive owners of needed right-of-way upgrades, engineered permit denials, isolated parcels, designed coercive timing, and issued public communications calculated to chill development. (Drakes Bay Land Co. v. United States 424 F.2d 574 (Ct. Cl. 1970).)

interests. It is not clear if the easements contemplated under the Act are to be for a specific term, or more likely, easements in perpetuity. [3] Locking property into fixed uses presents serious concerns. Here, for example, there appear to be no provisions to compensate the private owner of the fee if, due to changed circumstances, the agricultural uses of the land become infeasible and the owner is left, over time, with no reasonable use of the property. [4]

The specific language of the Point Reyes National Seashore Farmland Act of 1997 is set forth below.

The proposed "Point Reyes National Seashore Farmland Protection Act of 1997" begins with the following introductory sections:

SECTION 1. SHORT TITLE

This Act may be cited as the "Point Reyes National Seashore Farmland Protection Act of 1997".

SECTION 2. PURPOSES

The purposes of this Act are to:

(1) protect the pastoral nature of the land adjacent to the Point Reyes National Seashore from development that would be incompatible with the character, integrity, and visitor

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[3]/ California has established a minimum term of twenty years for conservation easements. (Gov. Code, § 51053.)

[4]/ At common law, the equitable doctrine of changed conditions allowed a court to terminate a land restriction when conditions changed in or around the restricted land in such a way that the restriction imposed "undue hardship" on the landowner. Today there is substantial debate about the applicability of the doctrine of changed conditions to conservation easements. (See generally, Jeffrey A. Blackie, "Conservation Easements and the Doctrine of Changed Conditions," 40 Hastings L.J. 1187 (1989); Vivian Quinn, "Preserving Farmland with Conservation Easements: Public Benefit or Burden?" 1992/1993 Ann. Surv. Am. L. 235.)

experience of the park;

(2) create a model public/private partnership among the Federal, State, and local governments, as well as organizations and citizens that will preserve and enhance the agricultural lands along Tomales and Bodega Bay Watersheds;

(3) protect the substantial Federal investment in Point Reyes National Seashore by protecting land and water resources and maintaining the relatively undeveloped nature of the land surrounding Tomales and Bodega Bays; and

(4) preserve productive uses of lands and waters in Marin and Sonoma Counties adjacent to Point Reyes National Seashore, primarily by maintaining the land in private ownership restricted by conservation easements.

* * *

The remaining proposed provisions are additions or amendments to the existing statute establishing the Point Reyes National Seashore. Language proposed to be added to the existing statute is indicated by underlining. Language proposed to be deleted from the existing statute is indicated by ~~striking out~~.

UNITED STATES CODE ANNOTATED
TITLE 16. CONSERVATION
CHAPTER 1--NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES
SUBCHAPTER LXIII--NATIONAL SEASHORE RECREATIONAL AREAS

§ 459c. Point Reyes National Seashore; purposes; authorization for establishment

In order to save and preserve, for purposes of public recreation, benefit, and inspiration, a portion of the diminishing seashore of the United States that remains undeveloped, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to take appropriate action

in the public interest toward the establishment of the national seashore set forth in section 459c-1 of this title.

§ 459c-1. Description of area

(a) Boundary map; availability; publication in Federal Register

The Point Reyes National Seashore shall consist of the lands, waters, and submerged lands generally depicted on the map entitled "Boundary Map, Point Reyes National Seashore", numbered 612-80,008-E and dated May 1978, plus those areas depicted on the map entitled "Point Reyes and GGNRA Amendments, dated October 25, 1979".

The map referred to in this section shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing, the Secretary may make minor revisions of the boundaries of the Point Reyes National Seashore when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(b) Bear Valley Ranch right-of-way

The area referred to in subsection (a) of this section shall also include a right-of-way to the aforesaid tract in the general vicinity of the northwesterly portion of the property known as "Bear Valley Ranch", to be selected by the Secretary, of not more than four hundred feet in width, together with such adjoining lands as would be deprived of access by reason of the acquisition of such right-of-way.

(c) Addition of Farmland Protection Area to Point Reyes National Seashore

The Point Reyes National Seashore shall also include the Farmland Protection Area depicted on the map numbered 612/60,163 and dated July, 1995. Such map shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia.

(d) Acquisition of Development Rights

Within the Farmland Protection Area depicted on the map referred to in section 2(c) of this Act the primary objective shall be to maintain agricultural land in private ownership protected from nonagricultural development by conservation easements.

§ 459c-2. Acquisition of property

(a) Authority of Secretary; manner and place; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary; liability of United States under contracts contingent on appropriations

The Secretary is authorized to acquire, and it is the intent of Congress that he shall acquire as rapidly as appropriated funds become available for this purpose or as such acquisition can be accomplished by donation or with donated funds or by transfer, exchange, or otherwise the lands, waters, and other property, and improvements thereon and any interest therein, within the areas described in section 459c-1 of this title or which lie within the boundaries of the seashore as established under section 459c-4 of this title (hereinafter referred to as "such area"). Any property, or interest therein, owned by a State or political subdivision thereof may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of sections 459c to 459c-7 of this title. In exercising his authority to acquire property in accordance with the provisions of this subsection, the Secretary may enter into contracts requiring the expenditure, when appropriated, of funds authorized by section 459c-7 of this title, but the liability of the United States under any such contract shall be contingent on the appropriation of funds sufficient to fulfill the obligations thereby incurred.

(b) Payment for acquisition; fair market value

The Secretary is authorized to pay for any acquisitions which he makes by purchase under sections 459c to 459c-7 of this title their fair market value, as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

(c) Exchange of property; cash equalization payments

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within California and adjacent States, notwithstanding any other provision of law. The properties so exchanged shall be approximately equal in fair market value, provided that the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

(d) Authority for Farmland Acquisition and Management

(1) Notwithstanding subsections (a) through (c) of this section, the Secretary, to encourage continued agricultural use, may acquire lands or interests in lands from the owners of such lands within the Farmland Protection Area depicted on the map referred to in section 2(c) of this Act. Except as provided in paragraph (3), lands and interests in lands may only be acquired under this subsection by donation, purchase with donated or appropriated funds, or exchange. Lands acquired under this subsection by exchange may be exchanged for lands located outside of the State of California, notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(2) (A) The Secretary shall give priority to (i) acquiring interests in lands through the purchase of development rights and conservation easements, (ii) acquiring lands and interests therein from nonprofit corporations and public agencies operating primarily for conservation purposes, and (iii) acquiring lands and interests therein by donation or exchange.

(B) The Secretary shall not acquire any conservation easements on lands within the Farmland Protection Area from nonprofit organizations which were acquired by such nonprofit organizations prior to January 1, 1997.

(C) For the purpose of managing, in the most cost effective manner, interests in lands acquired under this subsection, and for the purposes of maintaining continuity with lands that have existing easements, the Secretary shall enter into cooperative agreements with public agencies or nonprofit organizations having substantial experience holding, monitoring, and managing conservation easements on agricultural land in the region, such as the Marin Agricultural Land Trust, the Sonoma County Agricultural Preservation and Open Space District, and the Sonoma Land Trust.

(3) (A) Within the boundaries of the Farmland Protection Area depicted on the map referred to in section 2(c), absent an acquisition of privately owned lands or interests therein by the United States, nothing in this Act shall authorize any Federal Agency or official to regulate the use or enjoyment of privately owned lands, including lands currently subject to easements held by the Marin Agricultural Land Trust, the Sonoma County Agricultural Preservation and Open Space District, and the Sonoma Land Trust, and such privately owned lands shall continue under the jurisdiction of the State and political subdivisions within which they are located.

(B) The Secretary may permit, or lease, lands acquired in fee under this subsection. Any such permit or lease shall be consistent with the purposes of the Point Reyes National Seashore Farmland Protection Act of 1997. Notwithstanding any other provision of law, revenues derived from any such permit, or lease, may be retained by the Secretary, and such revenues shall be available, without further appropriation, for expenditure to further the goals and objectives of agricultural preservation within the boundaries of the area depicted on the map referred to in section 2(c).

(C) Lands, and interests in lands, within the area depicted on the map referred to in section 2(c) of this Act which are owned by the State of California, or any political subdivision thereof, may be acquired only by donation or exchange.

(4) Section 5 shall not apply with respect to lands and interests in lands acquired under this subsection.

§ 459c-3. Repealed. Pub.L. 91-223, § 2(b), Apr. 3, 1970, 84 Stat. 90

Section, Pub.L. 87-657, § 4, Sept. 13, 1962, 76 Stat. 540, provided conditions for exercise of eminent domain within pastoral zone and defined the term "ranching and dairying purposes".

§ 459c-4. Point Reyes National Seashore

(a) Establishment: notice in Federal Register

As soon as practicable after September 13, 1962, and following the acquisition by the Secretary of an acreage in the area described in section 459c-1 of this title, that is in the opinion of the Secretary efficiently administrable to carry out the purposes of sections 459c to 459c-7 of this title, the Secretary shall establish Point Reyes National Seashore by the publication of notice thereof in the Federal Register.

(b) Distribution of notice and map

Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 459c-1 of this title. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the State and to the governing body of each of the political subdivisions involved; (2) cause a copy of such notice and map to be published in one or more newspapers which circulate in each of the localities; and (3) cause a certified copy of such notice, a copy of such map, and a copy of sections 459c to 459c-7 of this title to be recorded at the registry of deeds for the county involved.

§ 459c-5. Owner's reservation of right of use and occupancy for fixed term of years or life

(a) Election of term; fair market value; termination; notification; lease of Federal lands; restrictive covenants, offer to prior owner or leaseholder

Except for property which the Secretary specifically determines is needed for interpretive or

resources management purposes of the seashore, the owner of improved property or of agricultural property on the date of its acquisition by the Secretary under sections 459c to 459c-7 of this title may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of sections 459c to 459c-7 of this title, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under sections 459c to 459c-7 of this title, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of sections 459c to 459c-7 of this title. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or was a leaseholder thereon immediately before its acquisition by the United States.

(b) "Improved and agricultural property" defined

As used in sections 459c to 459c-7 of this title, the term "improved property" shall mean a private noncommercial dwelling, including the land on which it is situated, whose construction was begun before September 1, 1959, or, in the case of areas added by action of the Ninety-fifth Congress, May 1, 1978, or, in the case of areas added by action of the Ninety-sixth Congress, May 1, 1979, and structures accessory thereto (hereinafter in this subsection referred to as "dwelling"), together with such amount and locus of the property adjoining and in the same ownership as such dwelling as the Secretary designates to be reasonably necessary for the enjoyment of such dwelling for the sole purpose of noncommercial residential use and occupancy. In making such designation the Secretary shall take into account the manner of noncommercial residential use and occupancy in which the dwelling and such adjoining property has usually been enjoyed by its owner or occupant. The term "agricultural property" as used in sections 459c to 459c-7 of this title means lands which were in regular use for, or were being converted to agricultural, ranching, or dairying purposes as of May 1, 1978, or, in the case of areas added by action of the Ninety-sixth Congress, May 1, 1979, together with residential and other structures related to the above uses of the property that were in existence or under construction as of May 1, 1978.

(c) Payment deferral; scheduling; interest rate

In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of sections 459c to 459c-7 of this title, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.

(d) Lands donated by State of California

The Secretary is authorized to accept and manage in accordance with sections 459c to 459c-7 of this title, any lands and improvements within or adjacent to the seashore which are donated by the State of California or its political subdivisions. He is directed to accept any such lands offered for donation which comprise the Tomales Bay State Park, or lie between said park and Fish Hatchery Creek. The boundaries of the seashore shall be changed to include any such donated lands.

(e) Fee or admission charge prohibited

Notwithstanding any other provision of law, no fee or admission charge may be levied for admission of the general public to the seashore.

§ 459c-6. Administration of property

(a) Protection, restoration, and preservation of natural environment

Except as otherwise provided in sections 459c to 459c-7 of this title, the property acquired by the Secretary under such sections shall be administered by the Secretary without impairment of its natural values, in a manner which provides for such recreational, educational, historic preservation, interpretation, and scientific research opportunities as are consistent with, based upon, and supportive of the maximum protection, restoration, and preservation of the natural environment within the area, subject to the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented, and in accordance with other laws of general application relating to the national park system as defined by sections 1b to 1d of this title, except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459c to 459c-7 of this title.

(b) Hunting and fishing regulations

The Secretary may permit hunting and fishing on lands and waters under his jurisdiction within the seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable local, State, and Federal law. The Secretary shall consult with officials

of the State of California and any political subdivision thereof who have jurisdiction of hunting and fishing prior to the issuance of any such regulations, and the Secretary is authorized to enter into cooperative agreements with such officials regarding such hunting and fishing as he may deem desirable.

§ 459c-6a. The Clem Miller Environmental Education Center; designation

The Secretary shall designate the principal environmental education center within the seashore as "The Clem Miller Environmental Education Center", in commemoration of the vision and leadership which the late Representative Clem Miller gave to the creation and protection of Point Reyes National Seashore.

§ 459c-6b. Cooperation with utilities district; land use and occupancy; terms and conditions

The Secretary shall cooperate with the Bolinas Public Utilities District to protect and enhance the watershed values within the seashore. The Secretary may, at his or her discretion, permit the use and occupancy of lands added to the seashore by action of the Ninety-fifth Congress by the utilities district for water supply purposes, subject to such terms and conditions as the Secretary deems are consistent with the purposes of sections 459c to 459c-7 of this title.

§ 459c-7. Authorization of appropriations; restriction on use of land

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 459c to 459c-7 of this title, except that no more than $57,500,000 shall be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of such sections: Provided, That no freehold, leasehold, or lesser interest in any lands hereafter acquired within the boundaries of the Point Reyes National Seashore shall be conveyed for residential or commercial purposes except for public accommodations, facilities, and services provided pursuant to sections 20 to 20g and 462(h) of this title. In addition to the sums heretofore authorized by this section, there is further authorized to be appropriated $5,000,000 for the acquisition of lands or interests therein.

In addition to the sums authorized to be appropriated by this section before the enactment of the Point Reyes National Seashore Farmland Protection Act of 1997, there is authorized to be appropriated $30,000,000 to be used on a matching basis to acquire land and interests in land under section 3(d). The Federal share of the costs of acquiring land and interests in lands under section 3(d) shall be one half of the total costs of such acquisition. The non-Federal share of such acquisition costs may be in the form of property, monies, services, or in-kind contributions, fairly valued. For such purposes, any lands or interests in lands that are within the boundaries

of the area depicted on the map referred to in section 2(c), that are currently held under a conservation easement by the Marin Agricultural Land Trust, the Sonoma Land Trust, the Sonoma County Agricultural Preservation and Open Space District, or any other land protection agency or by the State of California or any political subdivision thereof shall be considered a matching contribution from non-Federal sources in an amount equal to the fair market value of such lands or interests in land, as determined by the Secretary.

* * *

I hope this information is helpful. Should you have any questions or concerns, please do not hesitate to call.

Very truly yours,

Michael H. Remy

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MAY 0 7 1997

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May 2, 1997

Mr. Gordon Thornton, President
Marin County Farm Bureau
P.O. Box 64
Tomales, California 94971

Re: Point Reyes Farmland Protection Act

Dear Mr. Thornton:

Pursuant to your request, attached is an analysis and some suggested amendments for the draft version of the "Point Reyes National Seashore Farmland Protection Act of 1997" (hereinafter referred to as Act). I hope the following information is helpful to you and the County Farm Bureau.

Sec. 2 Purposes

Although the "purposes" section does not legally provide the Secretary of the Interior with the authority to regulate private land within the Farmland Protection Area, it will be used to discern the Congressional intent behind the passage of this Act.

Subsection 1, line 8-13, page 1

The first subsection clearly indicates that the Act is intended to prevent development in the identified area that is incompatible with the character, integrity and visitor experience of the park. Development is not defined by the Act and could include the development of, or existing, agricultural practices that might be considered incompatible with the Point Reyes National Seashore. Incompatible practices could include those that contribute to nonpoint source pollution or the use of herbicides and pesticides. Although not specifically regulated by the Act, the congressional intent could be interpreted to include such practices. Conservation easements and land acquired pursuant to the Act could be managed and regulated in a way that would prohibit such incompatible practices.

Subsection 2, line 7, page 2

The use of the word "historic" also raises concerns with the purposes of the Act. What constitutes an historic agricultural land? Will this Act prevent new agricultural operations from being established in the Protection Area? The word "historic" and its intent should be clarified.

Subsections 3 and 4, lines 3-11, page 2

The Federal Government and the National Park Service is consciously aware that it cannot use its authority as a proprietor or a sovereign to regulate the use of private property within or nearby federally owned properties. Consequently, to satisfy the intent of subsection (3), the Federal Government needs some property interest in land adjacent to Tomales and Bodega Bays to control any use of the privately owned land. To achieve this goal, the Federal Government is proposing to purchase conservation easements to restrict private property.

Sec. 3 **Addition of Farmland Protection Area to Point Reyes National Seashore and Acquisition of Development Rights**

Subsection (c), lines 19-21, page 2

The language "[t]he Point Reyes National Seashore shall also include the Farmland Protection Area," clearly adds the subject 38,000 acres into the National Park boundaries. Although the Secretary of the Interior cannot directly regulate private property uses, even if they are within the park boundaries, inclusion within such an area may automatically result in use restrictions that devalue the property. For example, the county with jurisdiction may use its police power to further restrict the use of the property to meet Park Service objectives. Also, private landowners could be subject to eminent domain acquisitions of the land merely by inclusion within the area since the public purpose has already been established. In practicality, the inclusion within the area will decrease the property's fair market value making eminent domain acquisitions and the acquisition of conservation easements a cheaper prospect for the Federal Government.

Subsection (d), lines 3-7, page 3

Although the primary objective is to maintain agricultural land in private ownership, the purchase of a conservation easement will give the Secretary of the Interior the necessary property interest to regulate the use of the agricultural land in private ownership.

Sec. b Authority for Farmland Acquisition and Management

Subsection (d)(1), lines 17-18, page 3

There is still a reference to paragraph (3) which is presumably the eminent domain language that has been deleted. This reference should be deleted. With the deletion of the eminent domain language, lands in the protection area may be subject to eminent domain by the Park Service. To avoid the acquisition of property through eminent domain, subsection (d)(1) could be amended as follows:

> (d)(1) Notwithstanding subsections (a) through (c) of this section, the Secretary, to encourage continued agricultural use, may acquire lands or interests in lands from the owners of such lands within the Farmland Protection Area depicted on the map referred to in section 2(c) of this Act. ~~Except as provided in paragraph (3), l~~ Lands and interests in lands may only be acquired under this subsection from landowners voluntarily by donation, purchase with donated or appropriated funds, or exchange. Lands acquired under this subsection cannot be obtained through the Secretary's exercise of the right or eminent domain. Lands acquired under this subsection by exchange may be exchanged for lands located outside of the State of California, notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)). Lands acquired under this subsection shall be valued on their fair market value as it would be if the lands were not included in the Farmland Protection Area.

The last sentence added to subsection (d)(1) will ensure that the Farmland Protection Area designation does not decrease the property value of the lands in question.

Subsection (3)(A), lines 9-20, page 5

This section reiterates the current legal status of private land within park boundaries. Basically, the Federal Government cannot regulate the use or enjoyment of privately owned lands for it is a power that has been reserved to the States. Lands or interests in lands (including conservation easements) held by the Federal Government, however, are subject to the Federal Government's complete jurisdiction. Although the side editorial comment responds that the conservation easement will expressly permit hunting, predator control and the use of pesticides, there is no guarantee at law for such provisions. Such express permission may need to be negotiated with the purchase of individual conservation easements.

Sec. (c) Authorization of Appropriations

lines 10-21, page 7

This language allows currently held conservation easements to be used as a non-Federal matching fund. Previous provisions say that the Secretary shall not acquire any conservation easements in place prior to January 1, 1997. These two provisions appear to be in conflict with each other. If an existing conservation easement is used as matching funds, will it come under the Federal Government's jurisdiction? To avoid any conflicting interpretations, existing conservation easements should not be used as matching funds. Lines 10-21 should therefore be amended as follows:

> ~~For such purposes;~~ Any lands or interest in lands that are within the boundaries of the area depicted on the map referred to in section 2(c), that are currently held under a conservation easement by the Marin Agricultural Land Trust, the Sonoma Land Trust, the Sonoma County Agricultural Preservation and Open Space District, or any other land protection agency or by the State of California or any political subdivision thereof shall not be considered a matching contribution from non-Federal sources ~~in an amount equal to the fair market value of such lands or interests in land, as determined by the Secretary.~~

As you can see from above, the inclusion of 38,000 acres in the Point Reyes National Seashore, even though identified as a Farmland Protection Area, may have some spill over affects on privately held property in the designated areas.

Please call me if you have any further questions.

Yours very truly,

THERESA A. DENNIS

TAD:ljp

cc: Bruce Blodgett, National Affairs

California Farm Bureau Federation

1601 Exposition Boulevard • Sacramento, CA 95815 • (916) 924-4000

March 20, 1997

Gordon Thornton
P O Box 64
Tomales, California 94971

Dear Mr. Thornton.

Thank you for sending me Congresswoman Lynn Woolsey's latest park bill. CFBF policy would still prohibit us from supporting such legislation for a number of reasons.

First, and foremost, this is still a bill to expand the Point Reyes National Seashore This bill may be packaged as a farmland preservation bill, but its true intent can be seen by the expansion of the park's boundaries to include 38,000 acres of private land.

For a park expansion bill, it is clear that the funding attached to this bill is inadequate Some area landowners may state that at least they will be bringing money into programs like MALT. However, the tradeoff in this case is a park land designation and that is asking too much

We do not believe that you preserve farm land by making it a park! Ms.Woolsey has tried to package this park bill as a farmland preservation bill which it is not Designating land as a park will not help keep these farming operations viable, since every farmer will now have a new landlord, the National Park Service. The Interior department has a clear tract record showing that they do not understand farming operations, nor have they shown any willingness to learn about the needs of farmers and ranchers. Furthermore, asking landowners to become part of the park so they can have the small chance of obtaining a conservation easement is too high a price to pay for farm and ranch owners.

Another concern relates to the deletion of the eminent domain language. It is covered in greater detail in the attached analysis, but the bottom line is this legislation does not prevent the agency from using condemnation as a means to acquire privately owned farmland.

This bill is the same park expansion bill, with a catchy new title. We must not lose sight of one key fact, this is a park expansion bill, not a farmland preservation bill and we can tell the difference.

Sincerely,

Bruce Blodgett
Director, National Affairs & Research

WOOLSEY BILL ANALYSIS

March 1997 Draft

Page one

The changes on this page are not useful. While we appreciate the title of the bill, we do not believe that the title correctly states the true impact of this bill which is to expand the park, not preserve agriculture.

Page two

The changes made on this page do not address our concerns. This bill adds what is considered a farmland protection area to the boundary of the park. This means that farmland will now be incorporated into the park. In total 38,000 acres of privately owned farmland will become 38,000 acres of publicly managed farmland. In addition, since the use of this land will be restricted to farm use and park use, we can expect farm land values to diminish.

Page three

While the statement on lines 3-7 is certainly positive, we must not forget that the land will be restricted as park land. All uses of land including the farming activities will be subject to regulations as park land, not farm land. It is important to remember that the passage of this legislation will not cause problems in the first year, or even the second. It will be in 5, 10 or more years that agency personnel charged with managing this farmland will make decisions that will not be consistent with these farming operations.

On lines 12-22, the bill also makes its intent clear by identifying areas where the agency will be purchasing land in the future. Under this section the secretary may acquire lands in the newly created park zone.

Page four

Lines 3-9 will allow the federal government to purchase conservation easements from landowners, nonprofit corporation, and public agencies. If after January 1, 1997, a landowners sells an easement to a group like MALT, the federal government has the right under this legislation to acquire that easement.

Lines 10-14 would be more useful if this was not a park expansion bill. While it is true that the passage of this bill will not directly affect the conditions of your existing MALT easement, you would still see restrictions in the future based on the fact that your private farmland will be designated park land.

Page five

Lines 4-8, miss the mark. We did not ask that all reference to eminent domain be removed from this bill. With this new deletion, and with the language on page three encouraging the purchase of land within the new park boundary, we have left no guidance to the agency regarding how they should purchase these lands. This means the Secretary of Interior can and likely will use eminent domain to acquire lands. We believe that the language should read: "The Secretary may not exercise the right of eminent domain to acquire lands unless requested by the landowner to do so."

Lines 9-20 bring into consideration another issue. When the agency acquires interests in lands (conservation easements) they will have the ability to regulate private property. Since the agency will be acquiring an interest in those lands that are already subject to MALT easements through the premise of "matching" funds, this leaves too may gray areas for agency interpretation regarding future regulation of these properties. The phrase "absent the acquisition of privately owned lands or interests therein by the United States" would have to be removed.

Page seven

Funding remains an issue with this proposal. The promotional study completed in an effort to gain support for this bill shows property values for the 38,000 acres to be at or near $80 million We are willing to bet that this number has been understated. In addition, the thirty million figure is irrelevant based on the ability of local interests to generate their matching funds.

Summary

As long as this bill adds land to the Point Reyes National Seashore, a catchy title for this area will not suffice. Again, there are other avenues. If Congresswoman Woolsey is interested in farmland preservation, she should be accessing funds available in the 1996 farm bill, and possibly introduce her own legislation to bring even more money to groups like MALT without mandating a park designation for farm properties . Do we not have enough faith in groups like MALT and the Sonoma districts to make wise decisions where they should allocate their resources? Do we not have enough faith in local government officials to make the right decisions regarding the future of this area? If I was a county Supervisor, this bill would be insulting to me as it implies that only congress knows how to plan for this area, not local governments.

November 4, 1997

Dan Smith
Sub-committee on National Parks
814 O'Neill, HOB
Washington, D.C. 20515

Corrections to testimony October 30, 1997 HR 1995 and 1135

My name is Mary Coletti. My family has been ranching our land for five generations. This same land is being left in trust to our children who plan to continue our ranching operation.

I have been to numerous meetings concerning this 38,000 acre park expansion bill. I have witnessed overwhelming landowner opposition, and, very little landowner support.(as the map illustrates). In addition, opposition to the park expansion bill, has been expressed by the farm groups, and the taxpayers organizations.[1] Ms. Woolsey, you wrote...letter of Dec. 5, 1995 and Dec. 22, 1995...

Somehow our concerns are not being heard so I helped form "Citizens for Protecting Farmland ". Our purpose is to educate the public and our legislators as to the facts of this bill, and reiterate our concerns and opposition to this bill. I would like to enter these packets into the record now. We are a group of landowners within the proposed park boundary representing over 22,000 acres opposed to the bill. 5700 additional acres have serious concerns, but are

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1 Opposition has been expressed by farm Groups. American Farm Bureau Federation, California Farm Bureau Federation, California Cattelmen's Association, California Wool Growers Association (refer to letter dated 11/04/97), North Bay Wool Growers, Sonoma County Farm Bureau, Fresno County Farm Bureau, Kings County Farm Bureau. (refer to packet for copy of letter)

A copy of a letter sent from the Marin County Farm Bureau to Lynn Woolsey, Richard Pombo, Don Young, James Hansen, Dianne Feinstein and Barbara Boxer, dated May 9, 1997, reaffirmed their position of opposition and that position has not changed. A copy of that letter was included in the packet. Also refer to the attached letter.

leery of speaking out.[2]

Of the 38,000 acres, over 27,000 acres are protected from development by the Williamson Act; over 11,500 acres are protected by the Marin County Agricultural Land Trust (MALT) and the Sonoma County Agriculture Preservation Trust (SALT); more is protected by Government ownership.(as the map illustrates)

Of the 38,000 acres, all development rights are protected by stringent local laws and zonings which have been in effect for 25 years; 120 acres per dwelling in Sonoma, and 60 acres per dwelling in Marin. Marin County maybe the only county to require mandatory conservation easements in order to build a dwelling. If protected by MALT, SALT, or the Williamson Act, the development rights are even more restrictive.(as the map illustrates)

Because of all of the above very few building permits have been issued over the past 10-15 years, further testimony that there is no push for development, or a need for this bill. These are family farms that have been in operation since the 1800's.

HR 1135 and HR 1995 is not the first time that farm land has been included within the Point Reyes National Seashore park boundary. Farmers fought to save their land from becoming park land in the 1960's and 1970's, and now, none of that land is privately owned.[3]

Congresswoman Woolsey, if you are concerned about preserving farmland, as the title of your legislation implies, I would strongly encourage you, with Congress's help, to increase funding for the USDA Conservation Easement Program and include our area as

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2 Since the publication of the packet, we received additional letters. 23,590.73 acres are opposed and 2,540.26 acres have major concerns for a total of 26,130.99. Letters from Margaret Nohmann, and Luke and Josh Stevens are included. The charts have been updated and are included. Pages 9, 10, 10.1, 11, are included. Mr. Williamsen, 39, is deceased, his wife and children continue to be opposed to the bill.

3 Merv McDonald submitted testimony pointing out that some ranchers were forced out of the boundary and the land became part of the Pt. Reyes National Seashore. (Refer to attached letter.)

one to receive the funds to purchase easements in Sonoma and Marin Counties. This would allow funding for anyone that would like to sell their easements to their land without the expansion of the Point Reyes National Seashore Park, and creating a "Public/Private" partnership or a "Local/Federal" partnership. This would not place an involuntary park boundary over our land. We are the best stewards of our land. Keeping the agricultural easements under the Department of the Agriculture, not the Department of Interior as part of a park, will help the farmers the most in the long run as history has shown.

The large map illustrates the landowner opposition to this park expansion.[4] All of the maps illustrate the lack of need for such a bill to prevent development. Please help my family, and the families of the other farmers who want to continue to ranch without being included within the Point Reyes National Seashore Park boundary. Having a park boundary over our land is not voluntary and is a waste of the taxpayers money.

Thank you for listening to my concerns,

Mary Blanchard Coletti

Mary Coletti/ Elizabeth Hanlein
trustees, landowners, and taxpayers
property address: 2799 Dillons Beach Road
home: 1286 S.E. 38th
Hillsboro, Oregon 97123
503-648-1399
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4 Opposition has been expressed to Ms. Woolsey. The chart on page 10 lists landowners who submitted letters (pages 21-70) or signed petitions (pages 71-81). To our knowledge these landowners have not changed their position and are still opposed to this legislation.